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ABSTRACT

This report presents the state of Michigan's special education state plan for fiscal years 1995-1997. It includes policies and procedures for complying with the Individuals with Disabilities Education Act (IDEA) and state regulations. Chapters address: (1) the right to education; (2) full educational opportunities, goals, and time lines; (3) child identification; (4) confidentiality of personally identifiable information; (5) Individualized Education Programs; (6) procedural safeguards, including policies on parental notice and consent, opportunity to examine records, independent educational evaluations, due process hearings, mediation, attorneys fees, and surrogate parents; (7) least restrictive environment; (8) protection in evaluation procedures; (9) responsibility of the state education agency for all educational programs; (10) comprehensive system of personnel development; (11) participation of private school children in public school special education programs and services; (12) recovery of funds for misclassified children; (13) notice and opportunity for hearing on public agency application; (14) annual evaluation; (15) use of Part B IDEA funds; (16) the state education agency's monitoring procedures; (17) interagency agreements; and (18) personnel standards. (CR)

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ED 423 657

Michigan Department of Education

Office of Special Education & Early Intervention Services

STATE OF MICHIGAN
Special Education State Plan
for
Fiscal Years 1995-1997

as Fully Approved by
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CHAPTER I
RIGHT TO EDUCATION POLICY STATEMENT

All eligible students with disabilities have a right to a free appropriate public education (FAPE). This policy became effective and mandated by statute in 1971. This right is provided to students with disabilities who are served by all public agencies in Michigan which are authorized to provide special education. The federal definition of public agency includes the state educational agency (SEA), local educational agencies (LEAs), intermediate educational units (IEUs), and any other political subdivisions of the state that are responsible for providing education to children with disabilities.

Eligible students include those noted in the Individuals with Disabilities Education Act (IDEA) as amended. Michigan has eligibility standards in 12 areas—severely mentally impaired, trainable mentally impaired, educable mentally impaired, emotionally impaired, hearing impaired, visually impaired, physically and otherwise health impaired, speech and language impaired, preprimary impaired, specific learning disability, severely multiply impaired, and autism. Students with traumatic brain injury are diagnosed pursuant to federal definition[1] and will be counted as a separate disability under the broad category of physically and otherwise health impaired.[2]

Students eligible for special education include persons from birth to age 26 who have not completed a normal course of study and have not graduated from high school (P.A. 451 of 1976 as amended).

REFERENCES PROVIDING A LEGAL BASE FOR THE ABOVE POLICY

State Statute: Article 3, Part 29 of the School Code of 1976

> 380.1701 Duties of State Board
> Sec. 1701. The state board shall:
> (a) Develop, establish, and continually evaluate and modify in cooperation with intermediate school boards, a state plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of every handicapped person. The plan shall coordinate all special education programs and services.
> (b) Require each intermediate school board to submit a plan pursuant to section 1711, in accordance with the state plan, to be approved by the state board.
> (c) Promulgate rules setting forth the requirements of the plans and procedures for submitting them.

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[1] §300.7(b)(12) Traumatic Brain Injury - an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

[2] 1973 regulations made explicit reference to all disabilities but autism which was added as a separate impairment category in 1983. Children with traumatic brain injury have been eligible under physically or otherwise health impaired since 1973. IDEA assurances express intent for future changes to Michigan Revised Administrative Rules for Special Education.

FOOTNOTE:

§300.7(b)(12) Traumatic Brain Injury - an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

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Article 3, Part 30 of the School Code of 1976
380.1711 Duties of intermediate school board; expenditures
Sec. 1711.(1) The intermediate school board shall:

(a) Develop, establish, and continually evaluate and modify in cooperation with its constituent districts, a plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of each handicapped person of whom the intermediate school board is required to maintain a record under subdivision (f). The plan shall coordinate the special education programs and services operated or contracted for by the constituent districts and shall be submitted to the state board for its approval. . . .

(f) Maintain a record of each handicapped person under 26 years of age, who is a resident of 1 of its constituent districts and who has not completed a normal course of study and graduated from high school, and the special education programs or services in which the handicapped person is participating on the fourth Friday after Labor day and Friday before Memorial day. The sole basis for determining the local school districts in which a handicapped person is a resident shall be the rules promulgated by the state board notwithstanding the provisions of section 1148. The records shall be maintained in accordance with rules promulgated by the state board.

Article 3, Part 31 of the School Code of 1976
380.1751 Special education programs and services of local school district.
Sec. 1751.(1) The board of a local school district shall provide special education programs and services designed to develop the maximum potential of each handicapped person in its district on record under section 1711 for whom an appropriate educational or training program can be provided in accordance with the intermediate school district special education plan, in either of the following ways or a combination thereof:

(a) Operate the special education program or service.

(b) Contract with its intermediate school board, another intermediate school board, another local school district board, an adjacent school district board in a bordering state, the Michigan school for the blind, the Michigan school for the deaf, the department of mental health, the department of social services, or any combination thereof, for delivery of the special education programs or services, or with an agency approved by the state board for delivery of an ancillary, professional special education service. The intermediate school district of which the local school district is constituent shall be a party to each contract even if the intermediate school district does not participate in the delivery of the program or services.

Free Appropriate Public Education

Appropriate public education means educational programs and services designed to meet the individual needs of each student with a disability. The procedures and policies regulating the individualized educational planning committee (IEPC) and the individualized education program (IEP) constitute the basis of determining a student's appropriate education.

Free education means education provided without expense to the student or parent(s). A FAPE includes the cost of the following:

1. Instruction provided by a LEA, intermediate school district (ISD), the Michigan School for the Blind, the Michigan School for the Deaf, the Michigan Department of Mental Health (MDMH), or the Michigan Department of Social Services (MDSS), as required in Section 1751(1) of the School Code, and the Michigan Department of Corrections (MDOC);

2. Related services for evaluation, supplemental instruction, or training required by students in order to benefit from the educational program, as required in Section 1751 of the School Code;

3. Transportation for students with disabilities to and from school where transportation is required for the student to get from home to school, from one school site to another, or from one program or service site to another, as required in Section 1756 of the School Code;

4. Room and board for persons with disabilities who are sent away from home by the school district for the purpose of receiving special education or related services, as required by Section 1761 of the School Code;

5. Supplies and equipment at least equal to those provided to other students in regular education programs and, in addition, supplies and equipment necessary to meet their defined instructional objectives, as required in R 340.1733(h) of the Administrative Rules for Special Education (Administrative Rules), effective July 1, 1987;

6. Diagnosis or reevaluation required for determination of eligibility under R 340.1721a of the Administrative Rules;

7. Reevaluation required by the public agency at least once every three years under the provisions of 34 CFR 300.534 of the implementing regulations of the IDEA and R 340.1722d of the Administrative Rules;

8. Additional diagnostic services recommended by the IEPC and required by the school district, including neurological, medical, and psychiatric and other professional services not provided by the school district, other public agencies, or covered by medical insurance, shall be the responsibility of the disabled person's district of residence, as required by R 340.1733(k) of the Administrative Rules;

9. The cost of ancillary or related services, which will include when appropriate, rehabilitation counseling services as defined in federal regulation 34 CFR 300.16(10), needed for educational purposes. Resources are available also from rehabilitation

agencies, Medicaid, Services to Crippled Children, the MDMH, the Michigan Department of Public Health (MDPH), and the MDSS, as well as county agencies and private insurance companies; and

10. Transition services means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

School districts are not required to provide or otherwise cover the costs of the following items described in the State Board of Education position statement on free textbooks, materials, and charging of fees:

1. Extracurricular activities where students are not graded or evaluated and credit is not given, or for any other activity in which participation is not required;

2. Voluntary extracurricular activities such as attendance at the Special Olympics or other nonrequired sporting events, plays, movies, or concerts where there is an admission fee or other costs;

3. Band and orchestra when not part of the regular school day and no grade, evaluation, or credit is given for the course;

4. Summer school programs, except when required by the IEP; and

5. Clothes and food, unless required by the district (e.g., food for home economics class, towels for drying after swimming class).

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CHAPTER II
FULL EDUCATIONAL OPPORTUNITIES, GOALS, AND TIME LINES

The Michigan Department of Education (MDE) ensures that all public agencies authorized to provide special education establish and implement a goal of providing a full educational opportunity to all children with disabilities.

The State Board of Education has established the Common Goals of Michigan Education. These goals serve as statements of broad direction and general purpose for Michigan's educational system. One of these goals is to assure equality of educational opportunity to students with disabilities.

> Michigan education must recognize and provide for the special educational needs of exceptional persons. This recognition must extend to those who are academically talented and to those who are considered physically, mentally, or emotionally handicapped.

The State Board of Education has established rules requiring each educational agency to assure that all students with disabilities ages birth through 25, who have not completed a normal course of study nor graduated from high school, have access to a full continuum of special education programs and services as a means of attaining their maximum potential.

The State Board of Education has established rules and policies for implementing the goals of full educational opportunity for Michigan's students with disabilities. The Administra-tive Rules identify the responsibility of educational agencies for identification, referral, diagnosis, determination of eligibility, and development of IEPs for students with disabilities.

The SEA collects data on an annual basis through established processes utilizing a number of data collection instruments: DS-4061, DS-4096, SE-4096, SE-4568, SE-4625, SE-4661, SE-4747, etc. Data is analyzed for such programmatic purposes as calculation of state aid to school districts, allocation of project funds, accountability, and projections of personnel needs.

An annual study of available personnel is conducted to determine aggregated state personnel counts by diagnostic area endorsements. This information is relayed to colleges and universities to enable them to direct persons interested in a career in special education to seek training in a field where there is a projected need.

This system will help assure the availability of adequately trained personnel needed to continue to meet the goal of full educational opportunity for Michigan's students with disabilities.

Chapter X, Comprehensive System of Personnel Development, presents in more detail the SEA plans and activities relating to both preservice and inservice. It likewise details the interface between the SEA, the school districts, and the teacher training institutions in activities that assure the availability of appropriately trained personnel to meet the needs of students with disabilities.

In order for the SEA to attain the full educational opportunity goal, provisions regarding physical accessibility of programs and services have been established. Inservice sessions have been provided to personnel in both regular and special education to generate awareness regarding the necessity of accessibility to programs and services in the pursuit of this goal. All school districts have been sent copies of a relating publication on procedures that deal with the elimination of architectural barriers. On-site consultation on the development of plans to identify, prioritize, and eliminate architectural barriers where these barriers preclude program accessibility as required by Section 504 of the Rehabilitation Act of 1973 is available to school districts through Michigan Rehabilitation Services (MRS).

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CHAPTER III
CHILD IDENTIFICATION

POLICY

It is the policy of the State Board of Education that all children who have disabilities and are in need of special education programs and services are identified, located, and evaluated. Further, persistent efforts shall continue to be undertaken to assure that Michigan citizens are aware of resources available to provide special education programs and services to children with disabilities. The Child Find (Michigan Project Find) process shall continue to be available for persons who suspect that a child may have a disabling condition or developmental delay. These persons shall also notify the school authorities regarding this concern. All referrals to the Michigan Project Find coordinator will be processed for diagnostic evaluation, treatment, and service plan recommendation, and/or referred to the appropriate agency if the child is not eligible for special education services.

PROCEDURES

To implement this policy, the State Board of Education has:

1. Approved the coordination of statewide Michigan Project Find activities through the Office of Special Education (OSE) and the Office of Public Affairs of the MDE. Activities include the continued cooperation with the MDPH, the MDMH, and the MDSS in maintaining a system to make health and developmental screening services available to all young children from birth to five years of age.

   In addition, efforts have been initiated to establish a Michigan Project Find coordinator with the MDPH, the MDMH, and the MDSS in order to locate, identify, and evaluate children with developmental delays or other special needs. These activities are a collaborative effort to implement P.L. 99-457, Part H.

2. Established rules requiring each ISD to develop a system for identifying persons with disabilities.

3. Sponsored statewide Michigan Project Find media campaigns designed to locate and identify persons with disabilities.

4. Directed MDE staff to continue:

   a. Coordinating statewide awareness campaigns;
   b. Developing and disseminating awareness and media materials;
   c. Disseminating information on effective Michigan Project Find methods to LEAs and ISDs;
   d. Reviewing ISD plans to assure that they identify the procedures and persons responsible for coordinating Michigan Project Find activities;
   e. Holding an annual statewide Michigan Project Find and preprimary special education conference;
   f. Holding four regional Michigan Project Find coordinator meetings;
   g. Coordinating regional workshops with P.L. 99-457, Part H staff, for staff from public programs serving children from birth to six years of age;
   h. Providing intensive technical assistance to school districts whose percentage of identified students with disabilities is very low;
   i. Improving the awareness and understanding of the community, especially the

medical, social service, and other early childhood/child care groups, regarding the educational programs and services available to the children with disabilities; and

j. Maintaining an advisory committee to review, evaluate, and make revisions concerning project goals, activities, and guidelines.

The following are successful statewide implementation activities. The success of these activities was determined by the oral and written feedback received from evaluation forms given to conference and workshop participants, comments from callers using the toll-free hot line, increased requests for written materials or presentations to media, community groups, organizations and agencies, and staff and advisory committee assessment:

1. Use of the IDEA funds to assure that ISDs initiate public awareness activities and enhance a child-identification system.

2. Designation of the month of October as Michigan Project Find month by the State Governor, upon SEA request.

3. Co-sponsor and participate in activities to celebrate April as the Month of the Young Child.

4. Maintenance of a statewide hot line telephone number for the Michigan Project Find, 1-800-252-0052. For telecommunication device for the deaf (TDD), Ameritech maintains the Michigan Relay Center and may be reached at 1-800-649-3777, or the OSE may be contacted at (517) 373-9434.

5. Coordination of an annual statewide Michigan Project Find conference. Attendance has increased during the past three years from 150 to 250 participants.

6. Coordination of workshops for Michigan Project Find coordinators and staff from other state agencies (MDPH, MDMH, MDSS), organizations and associations (Head Start, Michigan Child Care Coordinating Council, and Academy of Pediatricians). Attendees specifically requested that we hold an annual meeting/workshop to discuss collaboration and coordination efforts in providing comprehensive services to young children with disabilities, developmental delays, or "at risk" of severe developmental delays.

7. Development of statewide public service announcements for radio, television, and newspapers.

8. Statewide distribution of 90,000 Michigan Project Find written materials to parent(s), Head Start programs, community agencies, physicians, health providers, clinics, mental health agencies, and protective and preventative services of the MDSS.

9. Development of written material (developmental wheel) in Spanish and Arabic.

10. Inservice training for LEA and ISD superintendents, directors of special education, planners, and representatives from Parent Advisory Committees (PACs) on criteria for inclusion of child identification in the ISD plans, and other pertinent child identification issues.

PROGRAMMATIC OUTLOOK

1. Coordinate Michigan Project Find efforts within the education system (MDE, LEAs and ISDs) and undertaken by other human service agencies or organizations.

2. Provide technical assistance and training to LEAs and ISDs, human service agencies, and other organizations.

3. Expand public awareness initiatives to meet communication needs of diverse populations.

4. Utilize diverse activities to expand public awareness initiatives.

5. Coordinate end-of-the-year reports from LEAs and ISDs to determine number of children referred, diagnosed, evaluated, and served.

6. Coordinate Michigan Project Find efforts with Early On (Michigan's effort under Part H of the IDEA).

7. Submit State End-Of-The-Year Michigan Project Find Report.

EVALUATION

In addition to evaluation that occurs through normal technical assistance, end-of-the-year reports described above provide data on a district basis and, when aggregated, provide statewide information by disability, by age, and by location basis. On-site monitoring of each project and resultant intervention program occurs annually; equipment, teacher qualification, program quality, screening and evaluation, records review, and number of children served are included in the on-site review. These elements are evaluated either under the Michigan Project Find system for children who are at risk of school failure but not in special education, or under the Michigan Monitoring Model of the OSE procedures.

Evaluation of appropriate response, service, and procedural matters for Michigan Project Find referrals is also subjected to the same due process hearing and complaint procedures. These processes are considered to be an ad hoc evaluation method for program effectiveness.

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CHAPTER IV
CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION

School districts receiving funds generated under Part B of the IDEA must establish a process to maintain the confidentiality of education records in compliance with the IDEA, the Family Educational Rights and Privacy Act (P.L. 93-380) (FERPA), and the Administrative Rules. This chapter will define education records and present the SEA policies with regard to confidentiality of education records.

In discussion of parental rights relative to confidentiality, the term "eligible student" is used. A student is an "eligible student" if he or she has reached age 18 years. Natural parent(s) rights to access are restricted unless a court of appropriate jurisdiction has extended guardianship rights to the natural parent(s) or guardian beyond the student's 18 years due to mental, emotional, or physical impairments that, in the view of the court, are sufficient to warrant such action. In such cases where a student has reached 18 years and the court has not taken guardianship action, the student becomes his/her own parent(s) and references to parent(s) become the same as references to the student.

Education Records (Definition and Categories)

Education records are those records maintained by educational agencies on any person who has received or is receiving instruction. These records are limited to those that deal with the provision of education. These also include those records on related services for the students with disabilities and records required by law for the operation of special education programs.

Education records are usually personally identifiable. The FERPA defines these personally identifiable records as those records which by name, address, or other particular facts, are traceable to individual students. These records are likewise defined to include student's name, parent(s) or other family member's name, student's address, a personal identifier such as student number or social security number, and a list of personal characteristics or other information that would make the student's identity easily traceable. Education records can be categorized as: (a) central registry; (b) directory information; or (c) supplemental records.

Central Registry Records

In the State of Michigan, central registry records consist of minimum personal data required by law. Administrative Rules promulgated under Act 451 of the Public Acts of 1976, as amended, require the following to constitute the minimum information for all students with disabilities, birth through 25 years of age, placed in state- or privately-operated facilities.
R 340.1861(2) reads as follows:

> (2) Each record for the handicapped person shall include, at a minimum, all of the following:
> (a) The name, date of birth, sex, and racial or ethnic group.
> (b) Type of eligibility.
> (c) Transportation required.
> (d) Programs and services being rendered.
> (e) Full-time equivalency in special education.
> (f) Reason for leaving special education and anticipated service needs.
> (g) District of residence.
> (h) Program service code.
> Each record may include other data needed by the district.

Directory Information

The FERPA defines directory information to include the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most previous educational agency or institution attended by the student.

Supplemental Records

Supplemental records include verified information considered necessary to help the educational agency provide appropriate educational services to students with disabilities. These may include, but not be limited to, the following records:

1. Test results and relating reports.

2. Developmental histories, case studies, personal observations, and impressions based upon valuable data.

3. Reports from other cooperating agencies such as community mental health, hospitals and other similar institutions, the MDMH and the MDSS.

4. Narrative records that reflect factual accounts of observed behavior compiled by such professionals as school counselors, teacher consultants, school social workers, regular and special education teachers.

5. Personal working notes shared in the process of providing appropriate education to students with disabilities. The persons responsible for generating supplemental working notes are liable for the maintenance of their confidential status, particularly in the performance of their specific roles and functions within the educational agency. Personnel shall exercise discretion in the case of narrative records or other working notes as depositories for personal judgments concerning students. Teachers, administrators, and other school personnel do not enjoy absolute immunity from possible court action; thus, care should be taken to reduce their vulnerability to litigation.

Other records considered personally identifiable may include IEP reports, reevaluation reports, attendance records, classes and grades attended, and grade level(s) completed.

Exclusion From Education Records

The FERPA excludes the following from its definition of education records:

1. Records prepared by institutional, supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possession of the maker(s) thereof, and which are not accessible or revealed to any other person except a substitute. These include records prepared by staff in the course of their work with students.

2. Records and relating documents of the law enforcement unit of an educational agency or institution which are maintained apart from other records and are used solely for law enforcement purposes. These records are not made available to persons other than law enforcement officials of the same jurisdiction.

3. Records on employment where employment is not part of the student education program, except for co-op or work-study where work is part of the education program.

4. Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, which are created or maintained by a physician, psychologist, or psychiatrist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity or assisting in that capacity.

   These records are created, maintained, or used only in connection with the provision of treatment to the eligible student, eligible students being those who are 18 years of age or over, or are attending postsecondary institutions. These records are not available to anyone other than those providing such treatment. These records may not be available for student or parental review, challenge, or control; provided, however, that these are made available for the personal review of a physician or other appropriate professional of the eligible student's or parent's choice.

   Treatment does not include remedial education activities or activities which are part of the program of instruction at the educational agencies.

5. Records on alumni or on activities after graduation or after a definite period of time as specified in the policies of the educational agency that relate to retention of education records.

   If exempt records are utilized by members of the IEPC in determining and/or recommending a change in the educational status of individuals referred or currently enrolled in special education programs, such records shall become part of the education records and thereby lose sole possession status. They shall become subject to the review, challenge, or control by students and their parent(s).

ADMINISTRATIVE RESPONSIBILITY FOR EDUCATION RECORDS

Student and parent(s) rights to the privacy of education records shall be assured by the participating agency as a condition for the receipt of the IDEA funds. A policy to preserve these rights must be established and must be afforded to children as well as parent(s). The agency is to take into consideration the age of the child and the type or severity of the disability when applying these rights to children.

Notice regarding these rights should define circumstances that pertain to the exercise of these rights. Parent(s) or eligible students may waive these rights but may not be so required.

Annual Notice Policy

The IDEA and the FERPA both require educational agencies receiving federal funds for the operation of applicable programs to establish policies on confidentiality of education records. These shall define ways by which relating notices are to be provided to parent(s) and/or eligible students, together with pertinent regulations that protect their corresponding rights to privacy, in connection with the collection of data and procedures relating to use, storage, disclosure, retention, and destruction of personally identifiable records.

The notification of rights shall be done annually. The information shall be provided in the native language of the parent(s) who is known to use a primary language other than English. The MDE will develop notice statements in all identified native languages when English is not the primary language for dissemination annually or at the request of individuals whose native language is not English. Information regarding translation of the notice in various languages will be included in the notice.

The statement of rights shall include the following:

1. The right to inspect and review only the information relating to the student's (their child's) education record;

2. The right to seek to correct the student's education record, in a hearing if necessary;

3. The right to exercise control over other people's access to the student's education record;

4. The right to be informed about rights guaranteed by law and the right to report violations of law to the United States Department of Education; and

5. The notice shall include a full description of rights for the parent(s) and children under §438 of the General Education Provisions Act, and the FERPA.

In addition to the above, the statement of rights shall include a description of children on whom personally identifiable material is maintained; the types of information sought; the method the educational agency uses to gather information; uses made/to be made of the data; and agency policies or procedures regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information. The notice will be written in the native language of the parent(s) when English is not the primary language.

Adequate public notice shall be provided by the state and school districts before the conduct of such state- or district-wide activities as identification, location, and evaluation of children for special education purposes. The method of notification is left to the discretion of each educational agency.

Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers or other media or both, with circulation adequate to notify parents through the state of the activity.

Maintenance Policy

Educational agencies are required to maintain data on students currently enrolled in special education as well as on all children suspected of having disabilities. Each educational agency shall maintain and make available to parent(s) and/or eligible students, upon request, listings of the types and locations of data collected, stored, and used. These shall be as specific as possible and include such information as address and/or room in the agency building(s) and descriptive titles of types of records. Listings may come under such titles as central registry or administrative records; tests results: psychological, intelligence, aptitude, psychomotor, etc.; cumulative and anecdotal records, etc.

Central registry or directory information data shall be kept in a specified area. Supplemental records shall likewise be kept in the same area unless specified in agency policies, that is, where such records as cumulative, anecdotal, or psychological are maintained and kept by professional staff who use them directly and often in working with students with disabilities.

If a student's education records include data regarding other students, provisions shall be made to assure that the person entitled to examine one student's records should receive or be informed of only the part of the records that pertain to the particular student. Information regarding other students in the record should be excluded to assure their confidentiality.

Procedural Safeguards Policy

As a condition of receipt of the IDEA funds, each educational agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. Procedural safeguards that relate to these concerns should be established to include the following assurances:

1. That a designated official at each agency assume responsibility for ensuring the confidentiality of all personally identifiable information. Custodianship of education records shall be specified in agency policies.

2. That all persons collecting or using personally identifiable information or using computer terminals or microcomputers shall receive training or instruction regarding the procedures required in safeguarding confidential material, including access rights, types, and location of education records and amendment and hearing procedures.

3. That each participating agency maintain, for public inspection, a current listing of the names and position designations of school officials who may have access to personally identifiable information. The list(s) may be disseminated to parent(s) or eligible students at the time the agency provides notice of rights or these may be included in school handbooks, catalogs, school newspapers, and periodic reminders. They may also be provided upon request. These personnel may be included in the list of those school officials who will have access to student education records for legitimate educational purposes:

    a. A person appointed by the school board, i.e., superintendent;
    b. A person certified by the state and appointed by the school board to an administrative or supervisory position, i.e., special education director, supervisor, etc.;
    c. A person certified by the state and under contract to the school board as a teacher, counselor, etc.;
    d. A person employed by the school board as a temporary substitute for administrative, supervisory, or instructional personnel for the period of his/her performance as a substitute; and
    e. A person employed by or under contract to the school board to perform a special task such as a secretary, a clerk, the school board attorney, or auditor, in connection with the performance of his/her functions as an employee or contractor.

Right to Access of Education Records Policy

Participating agencies and other institutions involved in data collection, storage, and maintenance shall provide access rights to parent(s) and/or eligible student(s). Parent(s) and/or eligible students or their authorized representative should be allowed to inspect or review, upon request, all personally identifiable data collected, maintained, or used by the agency in relation to the education of students. [R 340.1862 of the Administrative Rules]

Inspection and Review Policy

Participating agencies and other participating institutions shall comply with requests without unnecessary delay for inspection or review of educational records relating to the identification, evaluation and reevaluation, or placement within 45 calendar days after requests have been made. The parent(s) requesting records for use at an IEPC meeting, a hearing, or an appeal shall be given access to requested records immediately. [R 340.1862 of the Administrative Rules]

If agency policy provides for the maintenance of a student's record in several locations, the school principal (or other designated records' custodian) may offer to collect copies of records or records themselves from locations other than a student's school so that they may be reviewed or inspected at one site. However, if parent(s) or eligible students wish to inspect records where they are maintained, the school principal will make every effort to accommodate their wishes. The school principal (or records' custodian) may contact the parent(s) or eligible student to discuss how access will be arranged or effected. Participating agencies shall presume that the parent(s) has the authority to inspect and review records relating to their children unless the agency has been advised that the parent(s) does not have the authority under applicable state law governing such matters as guardianship, separation, divorce, etc. An authorized representative of the parent(s) or eligible student must also be allowed to inspect or review the records.

The State of Michigan Attorney General's Opinion AGO 5027 states that, "A board of education may not refuse to disclose the school records of a child to the child's divorced parent on the ground that the divorced parent does not have custody of the child."

Explanation and Interpretation

School districts and other participating agencies are likewise required to provide an explanation or interpretation of data in education records upon request of either parent or eligible student. Medical, psychological, and other such records that are usually written in technical terminology should be explained by corresponding professionals to enhance the parent's understanding if necessary.

Copies Policy

Participating agencies shall make available, upon request or court order, copies of records if failure to provide these copies would effectively prevent the parent(s) from exercising the right to inspect and review the records. A fee may be charged for copies of records which are made for parent(s) or eligible student at no more than cost. However, a public agency may not charge the parent(s) for copies if the charge would effectively prevent the parent(s) from exercising their right to inspect and review education records. Fees may not be charged to search for or retrieve information.

If such valid reasons as working hours, distance between location sites, or health prevent parent(s) or eligible student from personally inspecting or reviewing records, arrangements should be made by the agency to provide copies of the records.

Amendment of Education Records Policy

Each participating agency or institution is required by law to establish a procedure regarding amendment of education records. All requests for records amendment shall be addressed to the agency's staff person responsible for the maintenance of education records.

Education records shall not be disposed of or destroyed if there is an outstanding request to inspect, review, or amend them.

These procedures may vary because of uniqueness of educational agencies. However, assurances for the following shall be incorporated in procedures:

1. That an amendment be requested by parent(s) and/or eligible student if records seem to be inaccurate, misleading, or otherwise in violation of privacy; the parent(s) or student must identify the part of record that needs change and cite reasons to show that the record is inaccurate, misleading, or in violation of student rights.

2. That an amendment be granted and effected (or not granted) within a 45-day period. The agency may comply with the request or it may decide not to comply. If it decides not to comply, the parent(s) or eligible student shall be notified of the decision and shall be advised of the right to a hearing pursuant to Section 99.21 of the Administrative Regulations for the FERPA to challenge the information which is believed to be inaccurate, misleading, and, therefore, in violation of the student's rights. The parent(s) or eligible student shall advise the agency if a hearing to challenge the record is being instigated by them.

3. That in the event of a hearing, the agency advise the parent(s) or eligible student, reasonably in advance, of the date, place, and time of the hearing.

4. That the hearing be conducted by a hearing officer who is a disinterested party. The hearing officer may be an official of the educational agency.

5. That during the hearing process, the parent(s) or eligible student be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend student education records. The parent(s) or eligible student may be assisted by other individuals (including a legal counselor).

6. That the participating agency prepare a written decision based solely on the evidence presented at the hearing. The written decision must include a summary of the evidence presented and the reasons for the decision.

If the decision is to the effect that the challenged information is not inaccurate, not misleading, or not in violation of the student's rights, the agency must notify the parent(s) or eligible student of the right to include in the records a statement regarding the challenged information and/or a statement setting forth reasons for disagreeing with the decision.

If the decision is to the effect that the challenged information is indeed inaccurate, misleading, or in violation of the student's rights, the records shall be amended accordingly and the agency shall notify the parent(s) or eligible student, in writing, that all existing copies of the records kept in various locations within the school agency have been so amended.

Any explanation placed in the records of the student shall be considered as part of the records and maintained as such as long as the record or contested portion is maintained by the agency. If the student's records or the contested portion is disclosed by the agency to any party, the explanation inherent thereto shall likewise be disclosed.

Right to Control Disclosure of Education Records

As a condition of receipt of federal funds, each participating agency or institution shall establish a policy to assure that education records are protected against indiscriminate disclosure. Parents and eligible students should be apprised of specific instances where their consent to the disclosure of certain records is not necessary. If parental consent is required but refused by the parent(s), the education records shall not be released to a third party unless those records have been duly subpoenaed by a court of competent jurisdiction. Except as noted below, parental consent is required before personally identifiable information is disclosed to anyone.

The participating agency may wish to exercise the option to disclose information contained in a student's education records without the prior written consent of the parent(s) or eligible student. In this case, the agency shall so indicate its intent in relating policies and likewise list specific situations and conditions for such disclosure, together with corresponding procedures. These procedures may be disseminated with other procedures on records confidentiality. Legislation provides that the following persons and/or agencies, functioning within corresponding functions, should be accorded qualified access to education records without the prior written consent of the parent(s) or eligible student:

1. School officials defined in the Procedural Safeguards Policy of this chapter, item 3, page 14;

2. Officials of another school or school system in which the student seeks or intends to enroll, provided that school policy so includes such provision with the following qualifiers:

    a. that a reasonable attempt to notify parent(s) or eligible student at last known address had been made;
    b. that transfer of records is initiated by parent(s) or eligible student at the sending agency;
    c. . that agency provides parent(s) or eligible student a copy of disclosed records upon request; and
    d. that agency provides parent(s) or eligible student the opportunity for a hearing, if so requested.

3. Federal or state officials in connection with audit and evaluation of federally-funded programs. These include the authorized representatives of the following: the Comptroller General of the United States; the Secretary of the Department of Education; the Commissioner; the Director of the National Institute of Education; the Assistant Secretary of Education; or State Educational Authorities;

4. Officials of government agencies on financial aid in connection with determining eligibility or extent of aid, and in enforcing terms or conditions for collection, if necessary;

5. Organizations conducting studies for purposes of developing, validating, or administering predictive tests, student programs, accreditation, and improving instruction. Provisions should be established to assure that studies are conducted in such a manner as to prevent the personal identification of students and their parents by individuals other than representatives of these organizations and that information shall be destroyed when no longer needed in the conduct of the study. Organizations shall include federal and state or local agencies and independent organizations;

6. Officials of relating health and safety organizations in case of emergency; and

7. Officials of the court to comply with judicial order or lawfully issued subpoena. The agency shall make a reasonable effort to notify the parent(s) or eligible student of the order or subpoena in advance of compliance.

The agency policy on disclosure shall require that information released be utilized only for purposes for which they are specifically intended. Limits to disclosure of education records may not preclude school employees from exhibiting student exemplary papers such as works of art, class examination results, and results of other class activities such as expository, poetry, or narrative writing, or from publicizing student achievement through honor rolls, etc., if it is within the approved policy of the school agency.

Information for disclosure with or without prior consent of parent(s) or eligible student shall be specified, together with corresponding intended use for each. If directory information or other forms of personally identifiable data are subject to release without prior consent, these should be specified in agency policies to assure that the parent(s) or eligible student is aware of procedural circumstances. However, a parent(s) has the right to refuse to allow the agency to designate any or certain information as directory information on a particular student. If the parent(s) does refuse, the school agency shall not publish the information nor disclose it as directory information, as long as the parent(s) or eligible student advises the agency within a reasonable period of time.

Records on instances of disclosure of education records shall be maintained and kept on file with corresponding student records as long as these are maintained and utilized by the agencies. These records shall specify the following:

1. The parties who have requested or obtained personally identifiable information from the education records of the student; i.e., a list shall be developed and attached to the student records and shall be kept updated;

2. The legitimate interests these parties had in requesting or obtaining information;

3. Dates person(s) or agency(ies) made requests; and

4. Indication of grant or denial of request and corresponding reasons.

The record on disclosures shall not necessarily include requests from parent(s) or eligible students or from school and other officials. The record may be subjected to the inspection of the following: parent(s) or eligible student; school official(s) responsible for the custody of the records; and other officials for purposes of auditing the record-keeping procedures of the school agency or institution.

Destruction of Education Records Policy

Education records are collected, compiled, and maintained by educational agencies with the use of public funds. For school agencies receiving funds under Part B of the IDEA, the MDE contends that these records are records of the educational agencies maintained primarily to assist them in providing appropriate programs and services to students enrolled in their schools. When the agencies decide that special education records are no longer needed to provide educational programs or services because the student has either graduated or left school, parent(s) or eligible student shall be so notified and shall likewise be informed that records must be destroyed upon their request.

Parent(s) or eligible student shall be provided with a relevant notice regarding their right to request destruction of records. The educational agency may specify criteria that shall determine when records are no longer necessary. These may include, for students with disabilities, such events as graduation from school, 26th birthday, or other such means of terminating enrollment as the conduct of the IEPC process and its decision to terminate provision of special education and related services.

The notice regarding right to destruction of records shall be provided upon graduation, upon reaching age 26, or during the IEPC meetings for students with disabilities, and other times as decided by the school agency and as specified in relating policies.

Legislation does not preclude maintenance of some parts of education records without time limitation. These may include the student's name, address, telephone number, grades, attendance records, classes attended, grade level(s) completed, and year(s) completed. Parent(s) of students or eligible students on whom records are collected and maintained shall likewise be informed of possible needs of these records for such future purposes as social security benefits, rehabilitation services, postsecondary education, and/or other community or governmental services. The agency may not destroy any educational records if there is an outstanding request by the parent or eligible student to inspect and/or review the records.

OSES SP 95-97

CHAPTER V
INDIVIDUALIZED EDUCATION PROGRAM*

POLICY

Each public agency authorized to provide special education programs and services is responsible for initiating and conducting an IEPC meeting to determine a student's eligibility and, if eligible, to develop a student's IEP. The SEA assures that each public agency develops and provides the special education and/or related services in accordance with the child's IEP. However, the agency, teacher, or other person cannot be held accountable if the child with disabilities does not achieve the growth projected in the annual goals and objectives. Each public agency likewise assures that parent(s) have the opportunity to participate at the IEPC meeting which determines eligibility and the necessary special education programs and services to provide the child with disabilities with a FAPE.

PROCEDURES

The following procedures have been established to assure that the rights of each student with disabilities are protected in the evaluation and placement process. All rights pursuant to these procedures are communicated to the parent(s).

1. Parents shall be notified of the school district's intent to evaluate as detailed in Chapter V of this document.

2. The time from referral, or from receipt of parental consent to an initial evaluation, to the completion of the IEP or the determination of ineligibility, shall not exceed 30 school days. This time line may be extended if agreed to by the parent(s) and public agency. [R 340.1721c(2) of the Administrative Rules]

3. Each student suspected of having a disability must be individually diagnosed to determine the extent and nature of the disability and its effect on the student's ability to learn. The diagnosis must be provided by qualified personnel. [R 340.1703 through R 340.1715 of the Administrative Rules]

4. Testing and evaluation instruments and procedures must be adapted according to the child's age, native language, and sensory, manual, and speaking skills. [R 340.1721a(3) of the Administrative Rules]

5. Prior to the IEPC meeting, all educational records on persons suspected of having a disability are made available to the parent(s) on request.

6. School districts are required to provide parent(s) the opportunity to participate in the IEPC process. The following activities relate to meeting arrangements:

   a. Notification is early enough to ensure an opportunity to attend;
   b. Meetings are scheduled at a mutually agreed upon time and place;
   c. Notice indicates the purpose, time, and location of the meeting and who will attend;

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*Some provisions of the Administrative Rules are currently under review with the U.S. Department of Education, Office of Special Education Programs. Completion of that review may result in corresponding changes in this chapter of the Plan.

if the purpose of the meeting is the consideration of transition services for a student, the notice must also indicate this purpose, indicate that the agency will invite the student, and identify any other agency that will be invited to send a representative;

d. Notice informs parent(s) that they may bring others to the meeting;
e. Alternative solutions are established if unable to attend;
f. If parent(s) cannot attend, detailed records of attempts to arrange mutually agreeable time and place are kept (records include logs of telephone calls, home visits, and copies of correspondence and the results of these attempts);
g. Assurances are established to ensure that the parent(s) understands the purpose of the meeting (interpreters, native language); and
h. Following the IEPC meeting, the parent(s) receive a copy of the IEP.

7. Participants in an IEPC meeting shall, at a minimum, include all of the following:

    a. A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education;
    b. The student's teacher or a teacher appropriate for the student's age and ability if the student is not previously enrolled by the public agency. If the child is enrolled in regular education, at least one of the participants shall be a regular full-time teacher to whom the child is assigned;
    c. At the initial IEPC meeting and at the three-year comprehensive reevaluation review meeting, a member of the multidisciplinary evaluation team (MET) is required to be a participant to present the written team report. At subsequent IEPC meetings, members of this team participate at the request of the parent(s) or public agency. One of the participants at the meeting presents the person's with disabilities current level of educational performance;
    d. The parent(s), and other persons at the discretion of the parent(s) or public agency, must be invited to attend;
    e. The student with a disability, if appropriate, may also be invited to participate; [R 340.1721b(4) of the Administrative Rules]
    f. If a purpose of the meeting is the consideration of transition services for a student, the public agency shall invite the student; and a representative of any other agency that is likely to be responsible for providing or paying for transition services. If the student does not attend, the public agency shall take other steps to ensure that the student's preferences and interests are considered; and if an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain the participation of the other agency in the planning of any transition services.

8. Each public agency initiates and conducts a meeting to develop an IEP for each student prior to placement in special education programs and services. This IEP includes the following information as provided in R 340.1721e(3) of the Administrative Rules and the IDEA as amended.

    a. A statement of the person's present level of educational performance;
    b. A statement of annual goals, including short-term instructional objectives. Any agency, teacher, or other person cannot be held accountable if a child does not achieve the growth projected by the goals and objectives;
    c. Appropriate objective criteria and evaluation procedures and schedules for determining whether the instructional objectives are being achieved;
    d. The extent to which the person is able to participate in regular education programs;
    e. An identification of the least restrictive environment (LRE) program and related service options which were considered, including the reasons why the options

were accepted or rejected in making the decision or decisions required in subdivision (f) of the subrule;

f. A statement of the specific special education or ancillary and other related services, or both, to be provided to the person, giving consideration to the accessibility of physical facilities; transportation, including the need, if any, for aids or restraints; and room and board. The definition of related services will be modified to ensure that therapeutic recreation and rehabilitation counseling are provided in accord with the IDEA;

g. Beginning at age 12, a statement indicating committee consideration of prevocational/vocational education needs;

h. The projected dates for initiation of special education programs and services and the anticipated duration of the programs and services;

i. The coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation, must include needed activities in the areas of instruction, community experiences, the development of post-school adult living objectives, and if appropriate, acquisition of daily living skills and functional vocational evaluation. These coordinated activities must be based on the individual student's needs, taking into account the student's preferences and interests;

j. The IEP for each student, beginning no later than age 16 (and at a younger age, if determined appropriate), must include a statement of the needed transition services including, if appropriate, a statement of each public agency's and each participating agency's[1] responsibilities or linkages, or both, before the student leaves the school setting;

k. If the IEP team determines that the activities are not needed in one or more of the areas specified in (i) above, the IEP must include a statement to that effect and the basis upon which the determination was made; and

l. An IEP will be developed prior to the child's transition to a preschool program under Part B;[2] the lead agency and the educational unit or other providers will assure uninterrupted provision of appropriate services to the child throughout the transition process.

FOOTNOTES

§300.340(b)..."participating agency" means a state or local agency, other than the public agency responsible for a student's education, that is financially and legally responsible for providing transition services to the student.

The State Plan for Part H provides that a meeting to develop a transition plan will be held at least 90 days before the child is eligible for the preschool program under Part B or before the child's third birthday; all program options for the period from the child's third birthday through the remainder of the school year will be reviewed as part of the transition planning process.

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[1] §300.340(b)..."participating agency" means a state or local agency, other than the public agency responsible for a student's education, that is financially and legally responsible for providing transition services to the student.

[2] The State Plan for Part H provides that a meeting to develop a transition plan will be held at least 90 days before the child is eligible for the preschool program under Part B or before the child's third birthday; all program options for the period from the child's third birthday through the remainder of the school year will be reviewed as part of the transition planning process.

9. Prior to placement in programs and services, the IEPC must have determined the student has a disability and is in need of special education intervention in order to benefit from the school program. [R 340.1721d(2) of the Administrative Rules]

10. Prior to assignment of an eligible student to the location where special education programs and services are to be provided, the superintendent or designee must receive the IEPC determination of placement in specific special education programs and services and must notify the parent(s) of the proposed action, statute, or rule under which the action is proposed, a statement for the reason therefore, including specifications of any tests or reports on which the action is based, and specify when and where programs or services are to begin. [R 340.1722a(1) and R 340.1723b of the Administrative Rules]

11. The initiation of special education programs and services, as determined by the IEPC or as based on the decision of the hearing officer, must be implemented as soon as possible following the meeting(s) at which it was developed, but in no case not more than 15 school days after the parent(s) has been notified, except in specific cases prescribed in rule. An IEP must be in effect for every child who is receiving special education from a public agency at the beginning of each school year and be in effect before special education and related services are provided to a child. [R 340.1722a(2) of the Administrative Rules]

12. Public agencies reconvene the IEPC meeting to review all components of each IEP at least annually and revise items when necessary to meet the unique needs of each child with a disability. The parent(s) must be advised of the IEP when it is reviewed and/or revised.

13. The following general requirements apply to all special education placements as provided in R 340.1733 of the Administrative Rules and the IDEA as amended:

    a. The special education programs' and services' methods of instruction shall be consistent with the short-term instructional objectives written for each student with a disability;
    b. The instructional program for a school day shall focus on the individual needs of each student with a disability, as determined through the IEPs;
    c. Special education programs and services shall be provided for at least the minimum number of hours and days of teacher-pupil contact in conformance with the child accounting rules, being R 340.1 to R 340.12, but the number of hours and days for a special education program or service shall be not less than those required for regular education programs. Special education includes instruction conducted in the classroom, in the home, in hospitals, institutions, and in other settings;
    d. In addition to those supplies and equipment necessary to meet their defined short-term instructional objectives, students with disabilities qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in regular education programs;
    e. Physical education services, specially designed if necessary as determined and specified on a child's IEP, shall be made available to every student with a disability. Special education students shall be afforded the opportunity to participate in regular physical education available to students without disabilities unless the student attends school in a separate facility or needs specially designed physical education described in his/her IEP. The public agency responsible for the education of a child shall provide these services directly or make arrangements for

it to be provided through other public/private programs;

f. Each public agency shall ensure that the hearing aids worn by children with hearing impairments in school are functioning properly;

g. Consideration is given to prevocational/vocational education needs beginning at the age of 12. Transition services are considered and provided at the age of 16 or earlier, if appropriate. The agency ensures that interagency agreements and the secondary curriculum will be refined to meet the standards of the IDEA; and

h. If a participating agency fails to provide agreed-upon transition services contained in the IEP of a student with a disability, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's IEP. Nothing in this part relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

14. Children enrolled in parochial or other private schools may be determined eligible for special education and may receive ancillary services from public school personnel under the provisions of Section 1296 of the School Code of 1976. The public school district serving the private school students with disabilities is required to supervise and conduct the IEP process as detailed in this chapter prior to the provision of ancillary services. The private school is asked, as a minimum, to have the child's teacher in attendance at the IEPC meeting. [Section 300.344(a)(2) of the Federal Regulations]

    If the private school initiates the IEPC meeting at the discretion of the public agency, the public agency ensures that the parent(s) and an agency representative are involved in any decision regarding the child's IEP and agree to the proposed changes before those changes are implemented. Compliance with this part remains with the public agency and the SEA.

15. Each educational agency providing special education programs and services is required to have an IEP on file for each student with a disability receiving special education programs or services.

    IEPs must be kept on file during the period they are in effect. They may be kept on file after the specified period at the discretion of the public agency. Representatives of an ISD, SEA, or the Secretary of the U.S. Department of Education, have access to such records without parental consent as specified in Section 99.31 of the FERPA.

16. A public agency serving children with disabilities must have a variety of educational programs and services available for them as provided to children without disabilities including art, music, industrial arts, and consumer/homemaking education as specified on a child's IEP.

CHAPTER VI
PROCEDURAL SAFEGUARDS*

POLICY

It is the policy of the MDE that all parent(s) of students with disabilities, parent(s) of children suspected to have disabilities, and public agencies authorized to provide special education programs be provided procedural safeguards. These safeguards relate specifically to the due process hearing, consent, independent educational evaluations (IEEs), notice requirements, and surrogate parent(s).

The Administrative Rules contain the rights afforded to parent(s) and public agencies. These rules also contain procedures to be followed by all public agencies, with the SEA being responsible for assuring that rights be protected.

PROCEDURES

A description of the procedures to be implemented and enforced regarding the procedural safeguards for students with disabilities must be included as an integral part of each ISD plan. The SEA reviews the ISD plans to assure that each contains procedural safeguards.

ISD plans and project applications for funds under Part B of the IDEA specify provisions for the conduct of the following:

Notice

A written notice must be provided to the parent(s), legal guardian(s), or surrogate(s) of children with disabilities within a reasonable time before the SEA, the ISD, or the LEA proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a FAPE to the child.

The notice includes a full explanation of all procedural safeguards that relate to evaluation procedures, tests, records, or reports that the school district uses as a basis for proposal or refusal.

The notice complies with both of the following requirements:

1. It shall be written in language understandable to the general public.
2. It shall be provided in the native language or other mode of communication of the parent(s), unless it is clearly not feasible to do so. If the native language of the parent(s) is not a written language, the agency takes steps to ensure all of the following:
    a. That the notice is translated orally or in another mode of communication, if they do not understand English;
    b. That the parent(s) understands the content of the notice;
    c. That there is written evidence that the requirements in subdivisions (a) and (b) of

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*The MDE has developed a document that will include a full explanation of procedural safeguards available to parent(s) as a model for public agencies to use to provide notice, according to federal regulation, and is available on request from the MDE.

this subrule have been met.

The notice includes all of the following:

1. A full explanation of all of the procedural safeguards available to the parent(s) under Part 2 of the Administrative Rules and under Subpart E of the regulations promulgated under Part B of the IDEA;

2. A description and explanation of the action proposed or refused by rule number and officially designated title, an explanation of why the agency proposed or refused to take the action, and a description of any options the agency considered, including the reasons why those options were considered or rejected, an identification of where the programs and services are to be provided, and when the individualized program is to begin;

3. A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal; and

4. A description of any other factors that are relevant to the agency's proposal or refusal. [R 340.1723b of the Administrative Rules]

Consent

Parental consent means the parent(s) has been fully informed of all activity for which the consent is sought, in his or her native language, or other mode of communication.

The parent(s) understand and must agree, in writing, to the carrying out of the activity for which consent is sought. The consent describes the activity and lists records, if any, that will be released and to whom.

The parent(s) understand that consent is voluntary and may be revoked at any time.

Evaluation means procedures used to determine whether a child is disabled and the nature and extent of the special education and related services that the child needs. Evaluation does not include basic tests administered to all children in a school, grade, or class.

Parental consent must be obtained before:

1. Initiation of formal evaluation procedures or preplacement evaluation;

2. Initiation of special education programs and services;

3. Disclosure of confidential information to anyone other than school officials or authorized officials of participating agencies;

4. Use of information for purposes other than those previously specified to the parent(s);

5. Medical evaluation;
6. Administration of personality tests; and

7. Placing a student in a program other than that which corresponds to the student's eligibility category.

If the parent(s) refuse to grant consent for 1., 2., 5., 6., and 7., above, the due process hearing procedures detailed later in this chapter shall apply. If the parent refuses consent for 3. or 4., FAPE will not be denied.

Personally Identifiable Information

Personally identifiable information means the name of the child, the child's parent(s), or other personal identifier such as the child's social security number, student number, etc., or a list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.

Opportunity to Examine Records

The parent(s) of a child with disabilities, or his/her authorized representative(s), shall be afforded an opportunity to inspect and review all education records with respect to identification, evaluation, education placement, and the provision of a FAPE within 45 days of his/her request. This includes:

1. The right to a response from the public agency to requests for explanations and interpretations of the records;

2. The right to request copies of the records if failure to provide those copies would prevent the parent(s) from exercising the right to review and inspect the records. A fee may be charged for copies of their child's educational records if the fee does not prevent the parent(s) from inspecting or reviewing those records. An agency may not charge fees for search/retrieval of educational records.

Each participating agency shall keep a record of parties attaining access to educational records maintained or used including the name of the party, the date of access, and the purpose for which authorization to access records was given.

If the educational record includes information on more than one child, the parent(s) has the right to review/inspect only the information related to their child.

Each participating agency shall provide parent(s), on request, a list of the types and locations of educational records collected, maintained, or used by the agency.

If the parent(s) believes information in the educational records is inaccurate, misleading, or violates the child's rights, the parent(s) may request the agency to amend the information. If the agency refuses to amend the information, it shall inform the parent(s) of the refusal and advise the parent(s) of the right to a hearing to challenge the information that is alleged to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

As a result of the hearing, if the contested information is determined to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, the agency shall amend the information in the record. If the information is determined to be accurate, the agency shall inform the parent(s) of the right to place in the record a statement for disagreeing with the decision of the agency. Any explanation placed in the record must be maintained as part of the educational record. If the contested portion is disclosed by the agency to any party, the explanation must also be disclosed.

Independent Educational Evaluation

The parent(s) of a child suspected to have a disability shall have the right to obtain an IEE if they disagree with an evaluation obtained by the public agency.

For the purposes of this part, IEE means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question. Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise at no cost to the parent(s).

The parent(s) shall submit their disagreement and request in written, signed, and dated form. However, the public agency may initiate a hearing under R 340.1724 to show that its evaluation is appropriate. The public agency shall respond, in writing, to the request within seven calendar days of its receipt by indicating the public agency's intention to honor the request or to initiate the hearing procedure under R 340.1724. If the hearing officer determines the evaluation to be appropriate, the parent(s) still has the right to an IEE, but not at public expense.

Each public agency shall provide parent(s) with information about IEEs at public expense. Such information shall include all of the following:

1. Criteria regarding credentials for qualified examiners;

2. Suggested sources and locations;

3. Procedures for reimbursement;

4. Reasonable expected costs; and

5. Notification that the parent(s) is not restricted to choosing from sources suggested by the public agency.

If the parent(s) obtains an IEE at his/her own expense, the results of the evaluation shall be considered by the public agency and the IEPC in any decision made with respect to the provision of FAPE to the student and may be presented as evidence at a hearing. If a hearing officer orders an IEE as part of a hearing, the cost of the evaluation so ordered shall be at public expense.

When an IEE is at public expense, including those instances when the parent(s) elects to use sources other than those identified by the public agency, the independent evaluator shall have the necessary credentials. The criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria which the public agency uses when it initiates an evaluation. The associated costs shall be reasonably in accord with those identified by the public agency in the information provided.

The school district shall disclose to the parent(s), before evaluation, whether the examiner contracted to provide an IEE provides services to the public agency which are in addition to the IEE.

An IEE shall not be conducted by an examiner or examiners who otherwise or regularly contract with the public agency to provide services, unless the examiner is agreeable to the parent(s).

Due Process Hearing

Parents and public agencies have the right to a due process hearing on any matter contained in the notice section of this chapter. Michigan's Administrative Rules:

1. Prohibit an employee or school board official of the involved agency or any person having personal or professional interest in the hearing from conducting a hearing;

2. Guarantee the appointment of a mutually acceptable hearing officer or, barring mutual acceptability, a hearing officer appointed by the state;

3. Designate the resident school district as the agency responsible for conducting the hearing;

4. Provide for the rights of the parent(s) in the hearing, including the right to be accompanied and advised by a counselor or other persons with special knowledge or training with respect to the problems of children with disabilities; the right to present evidence and confront, cross-examine, and compel witnesses to attend the hearing; the right to a written or electronic verbatim record of the hearing; the right to a written decision containing the findings of fact;

5. Ensure that all educational agencies operating special education programs conduct hearings and provide decisions with fair consideration of the issues involved, and, in conformity with Section 300.512 of the IDEA, render a hearing decision no later than 45 calendar days after receipt of request for the hearing or no later than 30 calendar days after receipt of appropriate request for state review, and mail a copy of the decision to each of the parties;

6. State that, unless otherwise agreed upon by the SEA or the LEA and the parent(s), the child involved will remain in his/her present placement during the pendency of any administrative or judicial proceedings pertinent to this part. If the hearing involves initial admission to public school, the child will be placed there until completion of proceedings, with the consent of the parent(s);

7. Ensure impartiality in the hearing process. Procedures assuring the rights of the parent(s) and the public educational agency to due process hearings should be detailed, particularly as these relate to such issues as evaluation, placement, IEP, and other areas relevant to special education programs and services. The parent(s) shall likewise be assured of their right to have the child, who is the subject of the hearing, present and/or to have the hearing open to the public, if they so desire. State and federal regulations provide either party with the right to prohibit the introduction of any new evidence or the direct testimony of any new witness who has not been disclosed to that party at least five calendar days prior to the hearing;

8. Afford either party the opportunity to appeal the local hearing decision to the SEA. Michigan law allows either party to seek court intervention if they do not agree with the SEA findings;

9. Assure that officials conducting impartial reviews examine the entire hearing record, ensure that procedures conform to due process, afford parties opportunity for oral or written argument or both, seek additional evidence if necessary, and render a fair and timely decision about appropriate special educational programs, services, or assignment, whether compensatory or prospective, which shall be provided at no cost to parent(s). The reviewing officials shall make an independent decision and provide copies of the decision and related findings to involved parties. Although the SEA remains responsible for the final decision or review, officials reviewing for the state are not SEA employees. They are independent officials who are contracted to render

the specific service. The state reviewing official's decisions are wholly his/hers and not subject to modification by the MDE or other state agency officials. State hearing officer decisions are final and binding unless appealed to courts of competent jurisdiction; [R 340.1724b(4) of the Administrative Rules]

10. Require that parent(s) be informed of any free or low-cost legal services and be provided with a list of hearing officers and their qualifications, if the parent(s) request the information or the public agency requests a hearing. [R 340.1724(3) of the Administrative Rules] The SEA maintains a list of persons known to be serving as hearing officers, including qualifications of these potential hearing officers. Each public agency must keep this list of persons who may serve as hearing officers along with their qualifications and distribute this list of hearing officers to any parent(s) who requests a hearing;

11. Assure that each hearing or review involving oral arguments is conducted at a time and place reasonably convenient to the parent(s) and/or the child involved. A hearing or reviewing officer may grant specific time extensions at the request of either party;

12. Following each hearing or review and after personal identifiers have been deleted, the findings and decisions will be transmitted to the Special Education Advisory Committee (SEAC). A copy of the findings and decisions with personal identifiers deleted will be made available to the general public upon request;

13. The hearing officer's decision is final unless appealed for a state review under R 340.1725. The state hearing officer's decision is final unless appealed to a court of competent jurisdiction.

Mediation

Any party to a hearing, before the hearing, may request a mediation process in which the relief sought consists of a mutually agreeable settlement between the parties. Both parties must agree to use mediation. If the mediator's recommendations are rejected, the case shall proceed to hearing in the normal fashion. Unless agreed to by both parties, mediation may not delay the required completion of the hearing within 45 calendar days.

Attorneys' Fee Bill

The Handicapped Children's Protection Act of 1986 (P.L. 99-372) amended the "procedural safeguards" section of the statute by making awards of attorneys' fees available to parent(s) and guardians of children with disabilities in certain situations. The current Part B regulations, at 34 CFR 300.506(c), state that, in certain circumstances, LEAs and other public agencies must inform the parent(s) of any free or low-cost legal and other relevant services available in the area. Michigan recognizes that the parent(s) may recover costs in certain situations. The court, in its discretion, may award reasonable attorneys' fees as part of the cost to the parent(s) or guardian(s) if the court believes the parent's party prevailed. ISDs and LEAs of Michigan must make this information available to the parent(s).

Policy for the Appointment of Surrogate Parents as provided in Chapter VI of the Michigan State Plan for Special Education Services

This policy applies to public agencies engaged in the education or care of individuals covered under the IDEA. The policy is intended to interpret federal provisions and the laws of the State as they may pertain to the provision of special education programs and services where those respective state and federal jurisdictions coincide.

Policy

It is the policy of the State Board of Education that each public agency, within the meaning of the IDEA, shall ensure that the rights of a child are protected when:

1. No parent, as defined in 34 CFR 300.10, can be identified; or
2. The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or
3. The child is a ward of the state under the laws of the State.

The duty of a public agency under the aforementioned laws includes the assignment of an individual to act as a "surrogate for the parent," and requires the development of a method for: 1) determining whether a child needs a surrogate for the parent; and 2) for assigning a surrogate for the parent to the child. The "surrogate for the parent" may represent the child in all matters relating to: 1) the identification, evaluation, and educational placement of the child; and 2) the provision of a FAPE to the child. [34 CFR 300.514(e)]

While Michigan's Administrative Rules do not employ the term "surrogate parent," R 340.1725d does impose a duty on public agencies relative to guardianship: "Each public agency shall assure that handicapped persons under the age of 18 have a parent or legal guardian to represent their interests. If no parent or legal guardian, as defined in R 340.1701a(i) can be identified, or if the public agency, after reasonable effort, cannot discover the whereabouts of a parent or legal guardian, the public agency shall notify the court of jurisdiction and request the court to take action to assure that the person has a legal guardian." The Surrogate Parents Policy is not intended to relieve the public agency of its duty under R 340.1725d [R 340.1725d].

Definitions

The term "surrogate parent" is not expressly defined, but rather is functionally defined in the federal implementing regulations for the IDEA. There is no definitional equivalent for the term in state law. The regulations use the terms "surrogate parent" and "surrogate for the parent" interchangeably. [34 CFR 300.514]

The term "parent" as defined in 34 CFR 300.10 means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with 34 CFR 300.514. The term does not include the state if the child is a ward of the state. The "comment" following 34 CFR 300.10 provides that "parent" includes persons acting in the place of a parent such as a grandmother or step-parent with whom the child lives, as well as persons who are legally responsible for a child's welfare. Permanent foster parents are persons acting as a parent of a child and are therefore "parents" under the meaning of the IDEA, [16 EHLR 739].

Michigan's Administrative Rules [R 340.1701a(i)] defines "parent" as "... the mother, father, or legally designated guardian of the handicapped person. 'Parent' also means the affected handicapped person when the person reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings."

"Public Agencies" includes LEAs and ISDs, and the MDE, the MDMH, the MDSS, and the MDOC.

Procedures

The implementing regulations for the IDEA place a two-fold duty on public agencies: 1) to determine whether a child needs a surrogate for the parent; and if so, 2) to assign the surrogate. The regulations require the development of a method to carry out this duty. Those regulations and case law or official interpretations related to application of the regulations provide additional clarification about requirements. The following procedures incorporate those considerations.

The differences in organizational structures and missions of service among those public agencies included in the definition compel flexibility in how those agencies are permitted to administer their responsibility efficiently and in a manner that keeps the surrogate resource as proximal as possible to the population in need.

Public agencies, particularly state governmental agencies, may carry out this duty as a central administrative office activity or as a decentralized responsibility assigned to specific facilities or agency subunits. LEAs or ISDs may likewise carry out this responsibility independently, in consortium or as an ISD function.

The procedure that best suits the particular public agencies involved should be described in the ISD plan or in the interagency agreement with the MDE.

To meet the federal requirements, the following characteristics apply to this policy and any specific agency procedure:

1. The surrogate parent may not be in the employ of the public agency that has direct or delegated authority to provide special education and related services to children with disabilities. This prohibition does not apply to guardians or long term permanent foster parents even if they are in the employ of the agency, because they are "persons acting as a parent for a child." As such, they are the parent and therefore negate the need for a surrogate parent appointment.[1]

2. If the youth is a ward of the state or court and the parent, as defined in the IDEA, has not had his/her parental rights terminated, that person is still the parent for purposes of this policy.

3. If the parent's identity and whereabouts are known, but he/she chooses not to cooperate or make himself/herself available, the public agency is prohibited from appointing a surrogate parent.
4. When the residential facility under consideration is also the educational placement, appointing surrogates who are employees of the agency responsible for the facility or for placing the youth in the facility may create a conflict of interest. If the public agency is financially and operationally independent from the agency responsible for the special education, in some instances it may be permissible to appoint a surrogate who is an employee of the agency related to the residential facility.

5. If there is conflict related to whether a child is in need of a surrogate or if there is a

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[1] Cited at 16 EHLR 738, U.S. Department of Education, Office of Special Education Programs, response March 19, 1990

question as to the existence of a conflict of interest associated with the proposed surrogate parent such matters must be determined on a case-by-case basis.[2]

Delineation of Operational Responsibilities

The State Board of Education, under its general supervisory responsibility and as the federal grant recipient, has the responsibility to assure that surrogate parents are available for any child covered under the IDEA who is in need of a surrogate for the parent.

Each public agency that has the responsibility for providing the education or care of the individual has the responsibility to develop and maintain an adequate pool of potential surrogate parents.

If the student is a ward of the state or court, the agency having the responsibility for the general care of the student should have the responsibility to appoint a surrogate conforming to the requirements of the IDEA.

If the student is not the ward of the state or the court, the public agency responsible for the special education of the student has the responsibility to appoint a surrogate parent and to seek guardianship through the provisions of R 340.1725d. The surrogate may serve pending the outcome of the R 340.1725d procedure. The appointment may continue depending on the particulars of that outcome.

The State Board of Education has the responsibility to resolve conflicts arising from determination of whether the need for a surrogate parent exists and/or if the proposed surrogate is free from conflict of interest.

The OSE and the public agency responsible to develop and maintain an adequate parent surrogate pool are mutually responsible to provide training. Because adequately preparing the surrogate parent to act as a surrogate for the parent involves a combination of general training about special education provisions as well as the characteristics of the programs, services, and procedures of the specific public agencies responsible for the care and education, this function must be a shared responsibility.

Developing and Maintaining the Parent Surrogate Resource

When the need for a surrogate parent arises, it is usually under circumstances that are governed by time lines. (i.e., when the agency receives a referral of a child who is suspected to be disabled or when the agency proposes or refuses to change the evaluation, diagnosis, placement, or a FAPE for a child, change of educational status, or for any follow-up proceedings to resolve conflicts such as hearings or complaint involving the child.) It is essential, as a condition of timely resolution of the activity and for fundamental fairness, that a surrogate be appointed in an expeditious manner. For that reason it is important to have developed a resource to obtain adequately-prepared surrogate parents.

There are various public or private associations or organizations to which a public agency may turn as a source to supply surrogate parents when the need arises. Depending on the nature and primary mission of the public agency, one source may be more appropriate than the other.

Special Education Parent Advisory Committees:

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[2] Cited at EHLR 257:447, Office of Civil Rights Supplement 110, December 9, 1983

ISDs are required by state law to maintain a Special Education PAC that is composed of parents of children with disabilities. Members of this committee could serve as surrogate parents or the Special Education PAC could assume some coordinating role in the development of the resource.

Many state agencies that have the responsibility for the residential care and the education of the child also have PACs that could serve in a capacity similar to the ISD PAC.

Other resources:

- Citizen advisory groups associated with the primary care agency
- Foster parent agencies
- Volunteer service agencies
- Parent organizations

Training Surrogate Parents

The MDE is responsible to assure that a parent surrogate resource is established and maintained. This requires the joint efforts and resources of the public agencies to which the duty to appoint surrogates may fall. Training will be effectuated through Michigan's Comprehensive System for Personnel Development and may be provided directly by the public agencies involved or through a contracted agent.

To be effective the training should incorporate:

1. Laws governing the provision of special education services including those pertaining to procedural safeguards;

2. Characteristics of the public agency and/or district providing care or special education for the child in question;

3. IEPC responsibilities and processes; and

4. The opportunity for the surrogate parent to become familiar with the needs of the child to whom the surrogate has been appointed.

Identifying the Need for a Surrogate Parent

If the student is a ward of the state, the identification and whereabouts of the parent as well as the status of residual parent rights should be known. If these factors are not known, then the agency with which wardship resides is generally thought to be the agency that is responsible for the general care of the individual. That agency should identify a surrogate parent from the pool of potential surrogate parents.

1. If that public agency is also responsible for the special education of the child, then the agency should appoint a surrogate parent from the pool that was developed by that agency.

2. If the public agency responsible for the general care of the child is different from the public agency that provides the special education for the child, then the general care agency may appoint a surrogate for the child or may request the agency providing special education to appoint a surrogate parent. The latter option should be by mutual agreement of the two agencies.

If the child is not a ward of the state or the court and if the potential need for a surrogate parent is made known to the LEA or the ISD, that public agency should attempt to identify the status of the parent or guardian and, if necessary, immediately appoint a surrogate parent from the pool of surrogate parents that the agency has developed. If no parent can be identified, the district shall initiate the R 340.1725d process and should appoint the surrogate until such time as the parent, guardianship or wardship issue is resolved.

Resolution of Conflicts Regarding Appointment of Surrogate Parents

If a question as to the need for a surrogate parent arises or if there is a question as to the appropriateness (existence of a conflict of interest) of the particular surrogate parent appointment, the agency responsible for appointing the surrogate parent should immediately attempt to resolve the question by meeting with the individuals who gave rise to the question.

If the conflict cannot be resolved in a timely fashion to address the pending education or care matters, the agency with the responsibility to appoint the surrogate for the parent should immediately petition the OSE director to resolve the conflict.

The director shall assign a staff member to investigate the matter and to file a disposition report. The agencies holding the question should be responsible to clearly identify the specific areas in dispute and to provide all information necessary and requested by OSE staff.

The OSE determination may be appealed to the U.S. Department of Education or a court of competent jurisdiction.

OSES SP 95-97

CHAPTER VII
LEAST RESTRICTIVE ENVIRONMENT

Public agencies, including state-operated or state-supported schools/agencies such as juvenile detention, corrections, and mental health facilities, must meet the federal requirements for least restrictive environment (LRE). The federal definition of public agency includes the SEA, LEAs, IEUs, and any other political subdivisions of the state that are responsible for providing education to children with disabilities.

STATE BOARD OF EDUCATION POSITION STATEMENT ON INCLUSIVE EDUCATION (1992)

This position statement sets forth the position of the State Board of Education regarding the placement of students with disabilities in general education classrooms within general education facilities. This encompasses the emerging concept in the delivery of programs and services to students with disabilities known as inclusive education. Inclusive education should be integral to present efforts in P.A. 25, school improvement, school restructuring, and core curriculum which are attempting to enhance education for all students.

This position statement reaffirms the 1984 policy on LRE [1] which served as a statement of commitment to increasing options for students with disabilities in general education facilities. Further, this position statement serves as a commitment to increasing opportunities for students with disabilities in general education classrooms within these facilities and to the integral involvement of parents in this process. It is the belief of the State Board of Education that program options created in general education classrooms will not only maximize the potential of students with disabilities, but also will assist in the preparation of both students with and without disabilities for integrated community living.

For purposes of this position statement, inclusive education is the provision of educational services for students with disabilities, in schools where their peers without disabilities attend, in age-appropriate general education classes under the direct supervision of general education teachers, with special education support and assistance as determined appropriate through the IEPC.

This definition is congruent with the MDE's belief that all children should have the opportunity to be educated together, regardless of disabling condition, in the school he or she would attend if not disabled unless otherwise determined appropriate through the IEPC process.

As noted in the policy on LRE concerning separate facilities, it is the policy of the State Board of Education, pursuant to state and federal rules and regulations, that students with disabilities are to receive their education in a chronologically age-appropriate, regular education environment unless a placement of this type is determined to be inappropriate even with the provision of supplemental aids and services. The determination of appropriate special education programs and services and the extent to which the student will participate in regular education programs shall be determined by the IEPC and be based on the student's individual needs.

The Educational Assignment of Handicapped Children and Youth to Separate Facilities: A Policy Regarding Least Restrictive Environment (1984) is provided in the next section of this chapter.

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[1] The Educational Assignment of Handicapped Children and Youth to Separate Facilities: A Policy Regarding Least Restrictive Environment (1984) is provided in the next section of this chapter.

The provision of these services requires the availability of a full continuum of program options. Inclusive education is one of the options available on this special education continuum. The following provision from the 1984 policy on LRE is pertinent to the development of the position taken in this position statement.

> Public agencies that operate or contract for special education programs should review their delivery system to ascertain if their current continuum contains options to meet the educational and social development needs of all their students. If program options are lacking in regular education environments, these options must be made available to serve the individual needs of students as determined through an individualized educational planning committee process.

During the process of formulating recommendations regarding educational programs and services for students with disabilities, the IEPC must consider the following, in order, based on the individual needs of the student.

1. Full-time placement in the general education classroom with special education support services.

2. Split-time placement in the general education classroom and a special education classroom program if it can be demonstrated that even with the provision of supplemental aids and services the student with disabilities cannot be appropriately educated on a full-time basis in the regular classroom setting.

3. Full-time placement in a special education program within a general education facility if it can be demonstrated that the student cannot be adequately educated in the split-time setting.

4. Placement to a separate facility.

Summary: It is the policy of the State Board of Education, pursuant to state and federal requirements, that students with disabilities must be educated with their peers without disabilities to the maximum extent appropriate to meet their individual educational needs and potential. So that this may be realized, it is essential that program options be available in general education classrooms within our general education facilities. Further, a process must be followed by the IEPC which will assure that the recommended placement option is appropriate to the individual needs of each student. Education placements are not to be based on the label describing the student's disability or the availability of programs.

The 1984 Policy on LRE sets forth this statement of principle and provides a course of action for public agencies to follow. It is believed that adherence to the contents of this position statement will assure an educational environment that is appropriate for serving the individual needs of each of Michigan's students with disabilities, as well as foster the preparation of all youth for a lifetime of integrated community living.

POLICY ON LEAST RESTRICTIVE ENVIRONMENT (1984)

It is the policy of the State Board of Education, pursuant to state and federal rules and regulations, that students with disabilities are to receive their education in a chronologically age-appropriate, regular educational environment unless an assignment of this type is determined to be inappropriate even with the provision of supplemental aids and services.

The determination of appropriate special education programs and services and the extent to which the student will participate in regular education programs shall be determined by the

IEPC and be based on the student's individual needs. Placement decisions shall not be based on the label describing the student's disability or the availability of programs.

Whenever a student is considered for placement in a separate facility (this being a facility utilized solely for the education of students with disabilities), the IEPC must consider less restrictive options based upon student needs and the nature and severity of the disability.

A separate facility may be an appropriate educational environment for some students. Placement in this type of facility should be carried out only after the IEPC has determined the extent to which the student will participate in regular education programs and has discussed and documented assignment alternatives based on the student's needs in the cognitive, affective, and psychomotor domains in both curricular and extracurricular areas. As part of this process, the IEPC is expected to discuss the socialization benefits to be accrued by the student with disabilities as well as by students without disabilities.

A continuum of alternative placements must be available to meet the needs of children with disabilities, including those in state schools for special education and related services, and include instruction in regular classes, special classes, special schools, home instruction, instruction in hospitals and institutions, and provision for supplementary services to be provided in conjunction with regular class placement. Public agencies must have required alternative placements available as necessary to implement each child's IEP.

Public agencies that operate or contract for special education programs must review their delivery system to ascertain if their current continuum contains options to meet the educational and social development needs of all their students. If program options are lacking in regular educational environments, these options must be made available to serve the individual needs of students as determined through an IEPC process.

Public agencies are responsible for placement of a person with a disability in a facility where the programs and services are to be provided. In effecting appropriate placements, the public agency assures the following:

1. That, to the maximum extent appropriate, children with disabilities, including children in public or private institutions, state schools, or other care facilities, are educated with children who do not have disabilities. They are expected to attend a school which houses other children of the same age, grade, and/or ability.

2. That the educational placement is based on the child's IEP. The IEPC shall determine a child's placement on at least an annual basis and develop an IEP which will be the basis of special education programs and related services for the child with disabilities.

3. That, in making the placement, consideration shall be given to any potential harmful effects to the student or on the quality of services which the student needs. To assure the availability of appropriate environments, teachers and other personnel are provided with adequate inservice, preservice training, and technical assistance.

4. That each student with disabilities shall participate with students without disabilities in nonacademic and extracurricular activities and services to the maximum extent appropriate to the needs of students with disabilities. Nonacademic and extracurricular activities and services may include, but may not be limited to, meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, and special interest groups or clubs sponsored by the public agency; and referrals to agencies that provide assistance to students with disabilities such as employment and other agencies for services based on need.

5. That placement in special classes, placement in separate schools, or the removal of the student with a disability from the regular educational environment occurs only when the nature or severity of the handicap is such that education in a regular class with use of supplementary aids and services cannot be achieved satisfactorily.

6. That individuals with disabilities who require special education and related services are educated in programs and services as close as possible to their home, including those children whose disabilities are such that they require placement to special classes or placement in separate facilities.

7. That unless a child's IEP requires some other arrangements, the child is educated in the school which he/she would attend if the child did not have a disability.

Continuum of Special Education Programs and Services

The State Board of Education has promulgated rules identifying the continuum of programs and services to be operated or contracted for by the ISD and to be included in the ISD Plan. R 340.1832, Part 1, Section 1.6(1) of the Administrative Rules specifically requires each Plan to, "Describe the special education basic programs and supportive services, including vocational training programs designed to meet the educational needs of handicapped persons." Other public agencies with responsibility for the education of children with disabilities are required to submit to the Department written plans that describe how special education programs and services will be provided. The State Board receives these plans.

Within each ISD, the following programs and/or services must be made available by direct provision or by contract to meet the identified needs of children with disabilities:

1. Required Classroom Programs	Administrative Code Reference
Educable Mentally Impaired	R 340.1740
Emotionally Impaired	R 340.1741
Hearing Impaired	R 340.1742
Learning Disabled	R 340.1747
Physically & Otherwise Health Impaired, including Traumatic Brain Injury	R 340.1744
Preprimary Impaired	R 340.1754
Severely Mentally Impaired	R 340.1738
Severely Multiply Impaired	R 340.1748
Trainable Mentally Impaired	R 340.1739
Visually Impaired	R 340.1743
Autistic Impaired	R 340.1758
2. Required Services	
Services to Preprimary Age Children	R 340.1755
Speech and Language Services	R 340.1745
Teacher Consultant	R 340.1749
Transportation	Section 1756 (School Code of 1976)

The MDE has approved the following classes of teacher consultants:

a. Teacher Consultants for the Mentally Impaired;
b. Teacher Consultants for the Emotionally Impaired;
c. Teacher Consultants for the Learning Disabled;
d. Teacher Consultants for the Hearing Impaired;
e. Teacher Consultants for the Visually Impaired;
f. Teacher Consultants for the Physically and Otherwise Health Impaired; and
g. Teacher Consultants for the Autistic Impaired.

Public agencies must hire or contract for the services of the various types of teacher consultants for supplementary instructional services to meet the needs of each student, as required through the IEPC process.

3. Required Diagnostic Services

Medical evaluation is required for:

a. Hearing Impaired	R 340.1707
b. Physically and Otherwise Health Impaired	R 340.1709
c. Severely Multiply Impaired	R 340.1714
d. Visually Impaired	R 340.1708

Medical evaluation, if needed, for Learning Disabled	R 340.1713
Audiological evaluation for Hearing Impaired	R 340.1707
Orientation and Mobility Evaluation for Visually Impaired	R 340.1721(a)(7)

Regular Education Teacher, Teacher, Teacher-Consultant, or Other Knowledgeable Professional in the Area of Learning Disabilities	R 340.1721a(4) R 340.1701a(e)

Psychological Evaluation for:

a. Educable Mentally Impaired	R 340.1705
b. Severely Language Impaired*	R 340.1756
c. Severely Mentally Impaired	R 340.1703
d. Trainable Mentally Impaired	R 340.1704
e. Severely Multiply Impaired	R 340.1714

*This rule applies to students with a speech and language impairment who are determined eligible for a severely language impaired classroom program.

School Social Worker and a School Psychologist or Psychiatrist for:

a. Emotionally Impaired	R 340.1706
b. Autistic Impaired	R 340.1715

Teacher of the Speech and Language Impaired for:

a. Speech and Language Impaired	R 340.1710
b. Autistic Impaired	R 340.1715

4. Other Programs and Services for the Disabled

The rules identify the following programs or services and allow districts to operate or contract for them as needed:

Homebound and Hospitalized	R 340.1746
Art, Occupational, Physical, Music, and Other Therapy	R 340.1701
Program in Juvenile Detention Facilities	R 340.1757
Elementary and Secondary Resource Programs	R 340.1749a and R 340.1749b
School Psychology and Social Work	R 340.1701
Severely Language Impaired Program	R 340.1756
Work Activity Center Service	R 340.1701b
Work Study Services	R 340.1733

The public agency assures that educational programs prescribed through the IEPC process are provided for each student with disabilities.

Duration of Programs and Services

The Administrative Rules establish the following criteria regarding the availability of programs and services:

Special education programs and services shall be provided for at least 180 days and 900 clock hours per pupil contact in conformance with the child accounting rules, R 340.1 to R 340.12 of the Administrative Rules, but the number of hours and days for a special education program or service shall be not less than that required for regular education programs.

Programs for the severely mentally impaired and the severely multiply impaired include a minimum of 230 days and 1,150 clock hours.

Classroom programs for children ages birth to six with the following diagnostic categories are available at a minimum of 144 days and 360 clock hours: educable and trainable mentally impaired, emotionally impaired, physically and otherwise health impaired,severely language impaired, preprimary impaired, visually impaired, hearing impaired, and learning disabled. Optional nonclassroom services to preprimary age children shall be available for a minimum of two hours per week, but not less than 72 clock hours within 180 school days.

Additional Environments for Students

The courts or the state agencies are responsible for the provision of educational services to students with disabilities who are placed in the following settings: juvenile detention facilities; the MDMH programs for the emotionally impaired; the MDSS custodial facilities, such as the boys and girls training schools; and the MDOC.

If there is evidence that placements are inconsistent with the established procedures, the review and implementation of corresponding corrective action shall be based on the state investigation procedures specified in R 340.1851.

The MDE assures written procedures for placement in the LRE will be fully consistent with the requirements of 34 CFR 300.554, which states:

> Each SEA shall make arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures) as may be necessary to ensure that § 300.550 is effectively implemented.

The MDE assures that beginning immediately, all public agencies will operate in a manner that is fully consistent with the requirements of 34 CFR 300.554.

Information and Technical Assistance

The SEA has disseminated its LRE policy statewide. It has developed and disseminated a brochure which provides information about LRE. Finally, a videotape entitled, "Least Restrictive Environment: The Building Block to Education" has been produced and disseminated. This video graphically portrays the State Board of Education's policy and highlights innovative approaches to implementing LRE throughout Michigan.

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CHAPTER VIII
PROTECTION IN EVALUATION PROCEDURES

Before initial placement each student who is suspected of having a disability must receive a full and individual evaluation by a MET. This team has the responsibility to conduct a comprehensive evaluation of the student and to write a report. The report, in addition to providing the reader with information about the student's suspected disability, must contain a recommendation of eligibility. All information obtained by the MET is documented by its presence in the MET report.

The Administrative Rules provide protections for the student and parent(s). Significant protections which are to be provided by the agency responsible to evaluate students follow:

1. Evaluations must be made by a MET or group of persons including one person knowledgeable in the area of the suspected disability;

2. The child is assessed in all areas related to the suspected disability including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

3. No single procedure is the sole criterion for determining an appropriate educational program;

4. Tests and other evaluation materials are provided and administered in the child's native language, or other mode of communication, unless clearly not feasible;

5. Materials and equipment necessary for carrying out an appropriate evaluation are available to the diagnostician and operable;

6. Evaluation materials have been validated for the purpose for which they are used;

7. Evaluation materials are administered by trained personnel in conformance with instructions provided by their producer;

8. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely a single general intelligence quotient (IQ);

9. Evaluation materials selected and administered to a child with impaired sensory, manual, or speaking skills must yield results which accurately reflect the child's aptitude or achievement level or other factors they purport to measure rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors which the test purports to measure); and

10. Opportunity is given to the parent to provide the MET with information about the person who has a disability or suspected disabilities.

Minimally, one member of the MET must be present at the IEPC meeting to present the MET report whenever evaluation information is used to determine a student's eligibility for special education and subsequent placement into special education. The SEA requires all agencies authorized to conduct IEPC meetings to do the following prior to making a decision about a student's eligibility and/or the determination of appropriate special education programs and services:

The public agency shall:

1. Draw information from a variety of sources including, but not limited to, aptitude and achievement tests, teacher recommendations, parent input, available IEE reports, physical condition, social or cultural background and adaptive behavior to complete a full and individual evaluation of the child's educational needs pursuant to 34 CFR 300.530-532; all testing materials and evaluation procedures must be selected and administered so as to be nondiscriminatory on the basis of race and culture;

2. Ensure that information from all sources in 1. above is considered in the placement decision;

3. Ensure that information obtained from all sources in 1. above is documented;

4. Ensure that the placement decision is made by a group of persons including those knowledgeable about the child, the meaning of the evaluation data, and the placement options (see Chapter V regarding IEPs for specific procedures); and

5. Ensure that the placement decision is made in conformity with the LRE rules in 34 CFR 300.550-300.554. (See Chapter VII regarding LRE for specific procedures.)

If the IEPC determines the student to be eligible for special education, an IEP is developed using the procedures established in Chapter V. As stated in Chapter V, the student's IEP is reviewed, minimally, on an annual basis, and the review procedures are identical to the development of any IEP.

When evaluating a person suspected of having a specific learning disability, at least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age. The MET shall complete a written report in accordance with R 340.1721a(5) including a statement of whether the child has a specific learning disability and the basis for making that determination.

When evaluating visually impaired students who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. The report must include a set of recommended procedures to be used by a mobility specialist or a teacher of the visually impaired in conducting orientation and mobility training activities. [R 340.1721a(7) of the Administrative Rules]

Each public agency is responsible for conducting a comprehensive evaluation at least every three years and/or more frequently if conditions warrant or the child's parent(s) or teacher requests reevaluation. A reevaluation of at least once every three years shall redetermine eligibility. This is conducted according to procedures established for the initial evaluation which is presented earlier in this chapter. OSES SP 95-97

CHAPTER IX
RESPONSIBILITY OF THE STATE EDUCATION AGENCY FOR ALL EDUCATIONAL PROGRAMS

The Constitution of the State of Michigan identifies the State Board of Education as the responsible agent for all education programs. Section 3 of Article 8 of the Constitution states:

> Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

In accord with the Constitution, Article 8, Section 8, "Services for handicapped persons:"

> Institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally or otherwise seriously handicapped shall always be fostered and supported.

Consistent with authority under the Constitution, Article 3, Part 29 of the General School Laws,"The School Code of 1976," at Sections 380.1701 through 380.1703, set out the general duties of the State Board of Education relative to special education programs and services:

380.1701 Duties of state board. [M.S.A. 15.41701]

Sec.1701. The state board shall:

(a) Develop, establish, and continually evaluate and modify in cooperation with intermediate school boards, a state plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of every handicapped person. The plan shall coordinate all special education programs and services.

(b) Require each intermediate school board to submit a plan pursuant to section 1711, in accordance with the state plan, to be approved by the state board.

(c) Promulgate rules setting forth the requirements of the plans and procedures for submitting them.

380.1702 Special education programs and services; application for approval of noncomplying programs and services; notice of noncompliance; proof of compliance or emergency; directing provision of complying programs or services; funding; contributing unreimbursed cost. [M.S.A. 15.41702]

Sec. 1702. (1) If a local school district board claims the existence of an emergency due to extreme financial condition because of insufficient operating funds or due to a severe classroom shortage, which emergency the local school district claims renders it unable to provide special education programs and services in compliance with section 1751, the local school district board shall apply in writing to the state board before July 1 of the particular school year for approval to provide special education programs or services which do not comply with section 1751. The state board may extend the filing date for good cause.

(2) In its application the local school district board shall demonstrate the need to provide noncomplying special education programs and services and

shall include the proposed programs and services it is able to provide and the efforts to be undertaken to alleviate the emergency. If the state board finds an emergency exists in the local school district for the school year, the state board may approve the providing of noncomplying special education programs or services and prescribe conditions for those programs and services.

(3) If the state board determines that a local school district is not providing special education programs and services in compliance with section 1751, and the local school district has not obtained prior approval from the state board, the state board shall give the local school district board written notice of the noncompliance. Unless the local school district board submits proof of compliance or of an unforeseen emergency within 30 days after receipt of the notice, the state board shall direct the intermediate school board of which the local school district is constituent to provide complying programs or services. The state board shall direct the intermediate school board to provide only those programs or services which the state board determines the local school district is not providing in compliance with section 1751.

(4) Special education programs or services which the state board directs an intermediate school district to provide shall be funded as if provided by the local school district and the local school district board shall contribute to the intermediate school district the unreimbursed cost of the programs or services.

380.1703 Qualifications and requirements for special education personnel; rules relative to special education programs and services. [M.S.A. 15.41703]

Sec. 1703. (1) Special education personnel shall meet the qualifications and requirements of the rules promulgated by the state board.

(2) Curriculum, eligibility of specific persons for special education programs and services and for each particular program or service, review procedures regarding the placement of persons in the programs or services, size of classes, size of programs, quantity and quality of equipment, supplies and housing, adequacy of methods of instruction, and length and content of school day shall be in accordance with rules promulgated by the state board relative to special education programs and services.

The State Board of Education, through its statutory authority, has promulgated Administrative Rules regulating public school programs and services in LEAs, ISDs, and state agencies educating children with disabilities under their jurisdiction. Descriptions of those agency responsibilities and relationships appear in Chapter XVII of this Plan.

CHAPTER X
COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

SCOPE OF SYSTEM

The OSE, in conjunction with the School Development Unit, the 57 ISDs, and the 22 Special Education Learning Materials Centers (SELMC) have developed a plan for a Comprehensive System of Personnel Development (CSPD) which focuses on needs identified by OSE through statewide needs assessment and on-site monitoring. The CSPD plan, in addition to the needs assessment, includes: determination of priorities, advisement from the Special Education Personnel Development Advisory Committee (SEPDAC), nature and extent of available resources, dissemination, training, and corresponding systems evaluation.

The Plan is established to comply with the following requirements of the IDEA: information and training to both regular and special education teachers to enable them to provide more meaningful experiences for students with disabilities in the LRE; technical assistance to teacher training institutions on potential revisions of training curricula; technical assistance to parents to apprise them of current information on rules and regulations regarding the IDEA and their rights as specified in the law; and assistance to other groups such as support personnel, to assure their awareness of their role in the state's commitment to educate children and youth with disabilities in the LRE. The determination of groups to be addressed and the content of their training is based on the statewide needs assessment. The Plan addresses current and projected special education and related services personnel needs, including the need for leadership personnel. Implementation of the Plan shall include coordination and facilitation among state and local agencies, institutions of higher education (IHE), and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds and personnel with disabilities.

SPECIAL EDUCATION LEARNING MATERIALS CENTERS

The SEA established 22 SELMC during 1971 for the purpose of providing technical assistance, consultation, inservice training, media, and materials to the 57 ISDs throughout the state.

This network of SELMC is strategically located in the same facility at each of the 22 ISDs, as are the Regional Educational Material Centers (REMC). Basically, the SELMC provides assistance to school district personnel who are involved in programs and services for students with disabilities while the REMCs provide assistance to school personnel involved in instruction for the students without disabilities.

Curriculum Resource Consultants (CRCs) provide consultation to special education personnel within SELMC regions to ensure that the quality of media and materials selection and inservice training provided is appropriate to the needs of the school districts.

The function of the SELMC and the role of the CRCs, who are located in school districts throughout the state, formulate a network of communication, information dissemination, and inservice training activities which is integral to the maintenance and continued implementation of the CSPD. This comprehensive system of personnel development provides for the participation of all educational units within the state, including: ISDs and corresponding LEA constituencies, parents, and teacher training institutions. These participants are involved in determining and prioritizing needs, developing training objectives and strategies, evaluation, and revision of the CSPD Plan.

Chart 1 illustrates the structure of the CSPD Plan.

Chart 2 reflects the composite for all personnel development activities.

THE CSPD

The following are the components of the CSPD:

1. An annual statewide needs assessment is conducted to either identify new needs or reaffirm needs previously identified. The process for assessing needs involves a three-step sequence of specific activities:

   A. Analysis of existing records:

      i. Review SEA on-site monitoring reports;
      ii. Review, tabulate, and analyze the needs assessment from LEAs/ISDs and the state as a whole, including parents.

   B. Comparison of previous year's needs assessment to include:

      i. Training priorities from previous year;
      ii. Training evaluations from previous year.

   C. Collection of opinions, observations, and interactions from:

      i. Public hearings conducted in different localities throughout the state;
      ii. Formal feedback from the SEAC;
      iii. A written survey of members of the SEPDAC;
      iv. Meetings with providers and consumers;
      v. Statewide organizations;
      vi. Parents of students with disabilities.

   D. The results of a statewide needs assessment constitute the primary basis for:

      i. Establishing and identifying content areas, target populations, and levels of training required for regular classroom teachers, special education teachers, parents, teacher aides, paraprofessionals, support personnel, operations personnel, university personnel, administrators, hearing officers, and other groups whose concerns are allied to those of students with disabilities;
      ii. Reviewing and identifying training priorities in light of the training delivered during the preceding fiscal year. This review is a collaborative activity involving all units of the CSPD;
      iii. Collecting the updated number of available qualified personnel; the number of new personnel needed; the number of personnel requiring retraining; the content areas in which training is needed; the groups requiring training; and the training levels required to be addressed. The SEA disseminates this information to universities to assist their planning program development and SEPDAC to assist them in developing priorities for preservice and inservice;
      iv. Providing the SEA information relative to personnel and needs projection on an annual basis.

2. Prioritization of Needs. The SEA coordinates the prioritization of identified needs by

soliciting input from such agencies or groups as SEPDAC, parent and professional organizations, MDE personnel, advocate groups as well as other educational agencies throughout the state. Identified needs are prioritized according to criteria developed to determine urgency of need.

3. Development of Training Programs and Strategies. After priorities are established, the SEA, with input from SEPDAC, will develop training programs, plan for the implementation of these programs, and provide technical assistance as needed.

4. Delivery of Training. Training based on statewide priorities is coordinated by the SEA staff. This training may be delivered by personnel from institutions of higher education, ISDs, and/or LEAs. The SEA shall disseminate to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources.

   The types of training are defined as follows:

   a. Awareness Training. This type of training focuses primarily on attitudinal change. At this level, new information is being introduced and participants realize the importance of the area and begin to focus on it. They acquire an idea of the major issues, relating content, and basic concepts.
   b. Knowledge Training. This type of training focuses primarily on cognitive change. This level assumes that the participants are aware of key concepts involved. They will acquire expansion of these key concepts, relating organized knowledge, and underlying theories. Presentations at this level will provide participants with factual information to enable them to draw conclusions and recall information for decision making.
   c. Skill Development. This level allows participants to engage in activities through demonstrations under laboratory conditions with appropriate feedback. The focus is on specific methods, techniques or procedures through simulation. The purpose of inservice at this level is to provide specific usable skills which teachers may apply in their classrooms. Vehicles for developing these skills include observation and collaboration with other teachers, demonstrations, hands-on practicum, video tapes and critique, retreats, make and take, role playing, simulations, collaborative teaching, etc.
   d. Skill Application. At this level, skills which have been developed under relatively controlled conditions are applied in the classroom setting. Teachers implement procedures for individuals, present materials in a variety of ways, etc. While skill application is usually seen as a goal of the three previous levels, it also represents a final level of training. The skills are observable within the classroom with students.

5. Evaluation of Training. All training activities are evaluated using SEA developed procedures. The inservice providers are responsible for providing this information tothe SEA staff. The SEA compiles and analyzes data on an annual basis. These reports are generated for accountability purposes, and for use as a basis for the comparison of needs, targeted population, and content.

6. Future training activities are determined by evaluation and needs assessment results. The SEA, the IHE, the regions, the ISDs, and the LEAs revise their own training plan on the basis of participant evaluations, needs assessment updates, staff input and/or concerns from the OSE, etc.

7. Dissemination. Information on CSPD activities is disseminated to school districts and advocate groups through the Center for Educational Networking (CEN), MDE

publications, etc.

CSPD Delivery System

The components of the CSPD delivery system are:

1. Inservice. At the onset of each training year, the SEA, through needs assessments and needs prioritization, establishes priorities for emphasis. Fiscal and technical assistance are provided to school districts as a result of the needs assessment and the prioritization of these needs.

   The SEA is responsible for the development of a needs assessment and relating these results to the provision of training through inservice, particularly as needs relate to the requirements of the IDEA.

   The nature of the training detailed in the preceding pages includes the following:

   a. IEPs: This need is addressed through training related to the development and implementation of the student's IEP.

   b. LRE: This need is addressed through training related to the development of a continuum of special education programs and services. The continuum assures the availability of programs and services to meet the individual student's need.

   c. Procedural Safeguards: This need is addressed through training that relates to the provision and implementation of appropriate procedural safeguards. Examples are: use of on-site monitoring data as part of a statewide and LEA/ISD needs assessment and/or the roles and functions in the hearing and the complaint processes.

      The SEA's analysis of the statewide need assessment results affect the prioritization of training content, target populations, etc., on a statewide basis. LEAs/ISDs may also support their specified training needs relating to their LEA/ISD needs assessments. These latter training needs may vary from district to district, considering population differences and geographic uniqueness.

      Training activities are collaboratively developed and implemented at the local, regional, and state levels. Each ISD designates a person to coordinate training activities, Coordinators of Training (COT). The COT is responsible for identifying training needs, coordinating training activities at the LEA/ISD level, and acting as a liaison between OSE's Training, Curriculum, and Approvals (TCA) Program.

2. College and University Involvement. The SEA provides colleges and universities information related to needed areas and target populations of preservice training. R 340.1782(e) of the Administrative Rules addresses additional requirements in the special education training sequence. Colleges and universities are required to include a training component on state and federal regulations for the students with disabilities.

   A committee entitled, "Special Education/Institutions of Higher Education" was established during the fall of 1986. The purpose of the committee is to provide leadership and to facilitate the cooperative development of teacher training programs among the IHE according to the training requirements as prescribed in the Administrative Rules.

The IHE Committee, which consists of 18 members, shall continue to meet on a regular bimonthly basis until the task of program approval of the special education teacher preparation programs has been completed.

C. Data Collection. The SEA shall develop and maintain a system for annual data collection on numbers and type of special education and related services personnel on an annual basis on qualified personnel to include the following: (1) the number and type of personnel, including leadership personnel, employed in the provision of special education and related services, by profession or discipline; (2) the number and type of personnel who are employed with emergency, provisional, or temporary certification in each certification, licensure, or other credentials comparable to certification or licensure for that profession or discipline; and (3) the number and type of personnel, including leadership personnel, in each profession or discipline needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other departures of personnel from the field, and other relevant factors.

The OSE collects teacher preparation data from all IHE who provide special education training programs. The data is collected from every declared special education major both semesters of the school year on a data collection form that is machine readable. The variables include type of certificate, teaching preferences, date of graduation, level of certificate and other demographic data. This supply data is compared to the demand data that is collected on December 1 of each year.

CSPD Operational Standards

1. School districts may allocate a portion of their flow-through funds for personnel development activities to meet needs identified through local needs assessments. School district plans for these activities are incorporated in the ISD Plans and are reviewed for funding purposes by the SEA staff.

2. To complement school district personnel development plans, the SEA has allocated funds from state initiated funds for inservice/preservice activities in content areas identified by the statewide needs assessment. These dollars are divided into two delivery system models.

   a. Support for statewide personnel development activities based on the results of the needs assessment.

   b. Support for statewide personnel development activities in specialized areas.

   Specialized areas for fiscal years 1995-97 are:

   i. Secondary programs with an emphasis upon transition services;
   ii. Training for teachers of the low-incident population;
   iii. Identification, assessment, and placement of special education students with limited English proficiency;
   iv. Hearing and complaints;
   v. Innovative projects and curriculum development;
   vi. Parent training on special education rules and regulations;
   vii. Diagnosis of student learning problems;
   viii. Development and utilization of program quality indicators;
   ix. Fetal alcohol syndrome; and
   x. Inclusive education.

3. The requirement of providing a FAPE necessitates the need to constantly update professional skills for those personnel already in the service and new personnel as they become teachers. Each education agency provides incentives necessary for the implementation of training activities.

   a. Training incentives may include, but may not be limited to:
      i. Released time
      ii. Stipends for participation
      iii. Options for academic credit
      iv. Other ideas

   b. The final determination of incentives remains at the LEA/ISD level.

4. The MDE has established a centralized linkage system which retrieves and disseminates educational information to school districts, parent organizations, IHE, and a variety of educational organizations. This is accomplished by the CEN and the state educational agency, TCA Program. The OSE is a distinct component of this system and as such, collaborates with other service areas in disseminating and receiving information on innovative and promising educational practices.

   A variety of promising educational projects, many of which have been previously validated by the MDE and a few nationally, have been generated within Michigan. These projects generally provide instructional content and teaching strategies for teachers (general and special education) to use when developing and implementing students' individualized instruction. The SEA may assist school districts to incorporate these projects by providing for demonstrations of the use of materials, programs, and how they relate to LEA/ISD/SEA needs. School districts and IHE are informed of training activities by SEA mailings to LEA/ISD superintendents, LEA/ISD directors of special education, CRC's, and university liaison persons, and through MDE publications. The SEA has also established a state initiated project entitled the "CEN." This project provides a communication and interpretation link between the LEAs and the ISDs, the MDE, and other pertinent groups.

   Another state initiated dissemination project is the provision of appropriate media materials and equipment, consultation, and information services for the blind, visually, hearing, physically, and multiply impaired populations. The PAM Assistance Centre provides these services.

   The Living and Learning Resource Centre (LLRC) was established by the SEA during the summer of 1986 through a facilities grant from the Michigan Commission for the Blind and a state discretionary grant under the IDEA. The LLRC was developed to provide a comprehensive information and demonstration center on the selection, development, and adaptation of high technology for educational and vocational purposes for individuals with disabilities throughout the state.

   The LLRC has five major goals:

   a. To serve as an information clearinghouse;
   b. To provide professional development training;
   c. To conduct diagnostic assessment;
   d. To evaluate equipment for persons with disabilities; and
   e. To identify modifications of tools and the work environment for individuals with disabilities.

The LLRC focuses on low-incidence populations such as individuals with visual or multiple impairments. It offers individuals and agencies the opportunity of previewing and obtaining information on adaptive equipment and software.

5. The evaluation of CSPD activities is a joint responsibility of the OSE and the SEPDAC of the MDE. This office provides technical assistance in the development and implementation of needs assessment instruments, analysis of the data, utilization of the data, and any other areas that may be defined at a later date.

   Conceptually, the components of the CSPD evaluation system include:

   a. Implementation Evaluation. The primary goal of the CSPD is to provide training for individuals providing programs and services to students with disabilities, both general education and special education. This training is a result of LEA/ISD/SEA needs assessments. This training is one of the components leading toward the full implementation of the IDEA, as amended, and Section 504 of the Rehabilitation Act of 1973.

   b. Process Evaluation. The record of personnel development activities is a common instrument used to collect data from training activities conducted regionally and LEAs/ISDs/SEA. This form also provides a means of documentation necessary for a district to be able to show compliance with CSPD sections of the IDEA.

   c. Content and Outcome Evaluation. A composite of results from an on-site written evaluation conducted at each training site will include a measurement of:

      i. The content and nature of the training;
      ii. The methods and strategies used to provide the training; and
      iii. The success of the providers of these inservices. Each group providing inservices also needs common demographic information to specify the population needing inservice, funding sources, providers of inservices, and related evaluation procedures.

Other CSPD Functions

Other components of the CSPD plan include:

1. Monitoring. The SEA monitoring standards, discussed in Chapter XIV, outline the processes by which special education is monitored. The CSPD plan and implementation, as a component of the IDEA, constitute the SEA on-site monitoring. In addition, the Title VI-B staff conduct a review of applications and on-site visits for accountability purposes.

2. Technical Assistance (TA). TA is provided through the following activities: SEA consultant services to educational agencies, parents, etc., upon request; data collection and analysis; publication and dissemination of documents; and the planning and implementation of conferences, workshops, and meetings to meet training needs. TA is also provided directly to school districts to assist in their planning, management, organization, and evaluation of their CSPD plan.

CHAPTER XI
PARTICIPATION OF PRIVATE SCHOOL CHILDREN IN PUBLIC SCHOOL SPECIAL EDUCATION PROGRAMS AND SERVICES

In general, children enrolled in private or nonpublic schools participate in public schools in two manners: (1) through the State Auxiliary Services Act, students are provided needed services in their secular, nonpublic schools; or, for students in sectarian, nonpublic schools, services are provided in public schools or religiously neutral sites (Grand Rapids v. Ball, US S. Ct. 1985). Necessary transportation is provided at public expense; and (2) through dual enrollment in the public schools in public school special education program.

POLICY AND PROCEDURES

The State Board of Education has established policies and procedures to assure that children enrolled in nonpublic schools participate in special education programs and services assisted or carried out under Part B of the IDEA to the extent consistent with their number and location in the state. The State Constitution specifies the following:

> The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.
>
> No public monies or property shall be appropriated or paid, or any public credit utilized by the legislature or any other political subdivision or agency of the state directly or indirectly to aid or maintain any private, denominational, or other nonpublic, pre-elementary, elementary, or secondary school. No payment, credit, tax benefit, exemption or deduction, tuition voucher, subsidy, grant or loan of public monies or property shall be provided, directly or indirectly, to support the attendance of any student or the employment of any person at any such nonpublic school or at any location or institution where instruction is offered in whole or in part to such nonpublic school students. The legislature may provide for the transportation of students to and from any school. (Article 8, Section 2)

While the Constitution of 1963 prohibits direct support of nonpublic schools, it does not prohibit the public schools from providing auxiliary services to students with disabilities attending nonpublic schools. The School Code of 1976 makes the following provisions:

> The board of a school district that provides auxiliary services specified in this section to its resident pupils in the elementary and secondary grades shall provide the same auxiliary services on an equal basis to pupils in the elementary and secondary grades at nonpublic schools. The board may use state school aid to pay for the auxiliary services. The auxiliary services shall include health and nursing services and examinations; street crossing guards services; national defense education act testing services; teacher of speech and language services; school social work services; school psychological services; teacher consultant services for handicapped pupils and other ancillary services for the handicapped; remedial reading; and other services determined by the legislature. Auxiliary services shall be provided under rules promulgated by the state board. (Section 1296)

Ancillary and related services for students with disabilities is defined in R 340.1701 of the Administrative Rules as those services specially designed to meet the unique needs of students with disabilities, ages birth through 25, including all of the following:

(i)Audiological, medical, psychiatric, psychological, speech and language, or educational evaluation.
(ii)Occupational, physical, recreational, music, art, or other therapy.
(iii)Mobility and orientation services, and special education services provided by other nonteaching personnel.
(iv) Transportation.
(v) School psychological and school social work services.
(vi) Instruction provided to students with disabilities who are homebound, hospitalized, or placed in juvenile detention facilities.
(vii)Services to preprimary age children, which include, where appropriate, evaluation, therapy, consultation with parents, and training activities.

The Michigan Auxiliary Services Act and related rules require that all school districts provide students enrolled in nonpublic schools with a genuine opportunity for equitable participation in special education services in accordance with requirements established by the School Code of 1976 and the IDEA. R 340.293 of the Administrative Rules requires school districts to notify in writing, no later than April 1 of each school year, all private or nonpublic schools within each district as to the available programs and services. Private nonpublic schools are then to respond by indicating which of those services they anticipate will be needed.

The procedures for referral, evaluation, determination of eligibility, and IEP development are the same as those presented within this Plan. The public agency which provides a child with disabilities in a private/parochial school special education and/or related services shall initiate and conduct meetings to develop, review, and revise an IEP for a child and ensure participation of the private/parochial school representative in these meetings. The public agency will provide the special education and/or related services in accordance with the child's IEP. However, the agency, teacher, or other person cannot be held accountable if the child with disabilities does not achieve the growth projected in the annual goals and objectives.

The MDE maintains an Office of Nonpublic Schools which promotes the interest of nonpublic schools consistent with state and federal laws.

SEA ASSURANCES

The IDEA regulations require that an applicant for a subgrant shall consult with appropriate representatives of students enrolled in nonpublic schools during all phases of the development and design of the project covered by the application. Services covered in the application shall be consistent with the number of eligible students with disabilities and their corresponding needs. Participating districts are required to consult with representatives of students enrolled in private schools during all phases of the development and design of the project covered by the application. These include which children will receive benefits, how the children's needs will be identified, what benefits will be provided, how these benefits will be provided, and how these services shall be evaluated to assure that they are meeting the needs of the students with disabilities.

Participating districts are likewise required by federal law to assure that the extent of consultation with nonpublic school representatives is consistent with the number of eligible private school students and their needs. Prior to decisions on program changes or revisions, or on items that may affect the opportunities of eligible students to participate in the project(s), school districts provide nonpublic schools the genuine opportunity to express their views regarding proposed changes or revisions. Nonpublic schools may refer students suspected of being disabled at any time. These referrals are treated as any other referral and are processed in accordance with time lines established for public school referrals. A subgrantee or school district determines the following matters on a basis comparable to that used by them in providing for the participation of public school students: the number of students who will participate in the project and the benefits that the subgrantee or school district will provide under the project or program to those students. Procedures to determine needs and number of students, and anticipated benefits for those students enrolled in private or nonpublic schools shall be the same as those used for public school students. The same needs assessment and child count forms which delineate diagnostic definitions for eligible students are used. Nonpublic school students are counted in the public school count of children receiving special education as listed on the ISD central register of students with disabilities and, for the purpose of reporting, they are likewise treated as public school students.

Since public school personnel provide needed services to nonpublic students with disabilities, the quality and scope of these services and the opportunity for participation are comparable to those provided for public school students of the same needs, attendance area, group, age, or grade level. To assure that all students with disabilities are provided with appropriate services, school districts are required to provide different program benefits to students with disabilities in private or nonpublic schools if their needs are not consistent with those of students in the public schools.

Participating districts are likewise required to spend the same average amount of program funds for students with disabilities in both public and private or nonpublic schools, so as to guarantee the equitable provision of benefits to all eligible students. School districts shall spend a different average amount on program benefits for students enrolled in private schools if the average cost of meeting the needs of those students is different from the cost of meeting the needs of students enrolled in public schools.

Participating districts applying for subgrants to use flow-through funds for programs and services are required to submit assurances and related information on the following: description of process of meeting requirements for participation of students enrolled in private or nonpublic schools; number of students enrolled in private schools who have been identified as eligible for benefits under the program; number of students identified to participate in the project; basis of selection of participants; manner and extent to which the applicant consulted with appropriate representatives of students in private schools during all phases of the development and design of the project; places and times the student will receive benefits under the program; and differences, if any, between the program benefits the applicant will provide to the private and public school students, and the reasons for the differences. Assurances in the application form likewise specify that the conduct of the project or program/service shall be consistent with policies defined in this State Plan and the ISD Plans reviewed and approved by the State Board of Education.

Programs and projects carried out in public facilities involving joint participation by children with disabilities enrolled in nonpublic schools do not include classes that are separate on the basis of school enrollment or children's religious affiliation. Services provided to eligible students in private or nonpublic schools are designed to supplement existing levels of instruction and cannot, under law, be used to cover all instruction in these same schools nor to otherwise benefit the private school. Program funds for the IDEA shall be used to meet specific needs of students with disabilities enrolled in these schools rather than the needs of the private or nonpublic school itself, or the general needs of all the students enrolled in these schools.

School districts may use program funds to make public school personnel available in other than public facilities to the extent necessary to provide equitable program benefits designed for students with disabilities enrolled in a private school, if those benefits are not normally provided by the private school but determined as necessary for the student's appropriate education.

School districts may likewise use program funds to pay for the services of an employee of a private school if the employee performs the services outside of regular hours of duty and performs these services under the public school's supervision and control.

The SEA and the public agency within which the private school or facility is located shall continue to assume the responsibility of assuring that: the IEP shall be implemented as developed; all relating requirements shall be complied with as specified; and services shall be monitored.

The SEA shall likewise continue to require school districts to report data on the number of individuals with disabilities in nonpublic schools. The SEA shall also require school districts providing educational and related services to children enrolled in nonpublic schools to maintain administrative control and direction over those services.

Since all programs and services are operated by the public schools, there is no possibility that funds or property and supplies acquired and provided under the IDEA will benefit private schools. Such property or equipment shall be in the name of the public agency. This same agency shall maintain the equipment, monitor and document its use, and assure its availability within the premises. Equipment and supplies may be kept in the private or nonpublic school for the period of time needed by the project and these shall be removed when no longer needed. Removal from the private school premises shall be effected to prevent their utilization for purposes other than those of the project and that removal shall not necessitate the remodeling of the private or nonpublic school facilities. The SEA also requires that project funds shall not be used for the construction of private school facilities.

PLACEMENT OF CHILDREN IN PRIVATE SCHOOLS

Michigan law makes public schools responsible for the education of students with disabilities from birth to age 26. Therefore, Michigan serves students who are older than the age limitation of the IDEA. Michigan law allows local districts to contract with other local public school districts, ISDs, the MDMH and the MDSS, as well as the Michigan School for the Blind and the Michigan School for the Deaf for the provision of special education classroom programs. The law, however, does not allow public school districts to contract with nonpublic schools for the provision of classroom instruction for students with disabilities. The IDEA and its regulations do permit a school district to place a child with disabilities within the Act's age range (3-21) in a private school or facility.

Special education in Michigan serves approximately 180,000 young people a year in LEA and ISD programs. Rarely does a student present needs too unique that they cannot be adequately addressed in a currently available classroom in our public schools. In these rare instances, placement of a student in a privately operated educational facility may occur. Prior to private school placement consideration, the public agency will initiate and conduct an IEPC meeting before referring a child to or placing a child in a private school facility. The referring agency must ensure that a representative of the private agency attends the meeting. If the private agency representative cannot attend the meeting, the public agency shall use other methods to ensure private agency participation and document those attempts, including individual and/or conference calls. When such a placement occurs, the SEA ensures that:

1. An IEP is developed and implemented for each child with disabilities who is placed in or referred to a private school or facility by a public agency or is enrolled in a parochial or other private school and receives special education or related services from a public agency;

2. The program is in conformity with the student's IEP;

3. The program is at no cost to parents;

4. The program is not paid for with state appropriated funds; and

5. The program is provided in a school or facility that meets the requirements of the State Board of Education.

Each public agency shall provide special education and related services designed to meet the needs of private school children with disabilities residing within the jurisdiction of that agency.

After a child with disabilities is placed in a private school or facility, any meeting to review or revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency. At these meetings, the public agency shall ensure that the agency representative(s) and the parent(s) are involved in any decision about the child's IEP and agree to any proposed changes before they are implemented. For those children with disabilities placed in a private school/facility, compliance to applicable rules rests with the ISD in which the private school/agency is located and the MDE.

If, however, a student has available a FAPE and the parent(s) chooses to place their child in a private school or facility, the agency is not required to pay for the child's education at the private school or facility. In a related matter, if the parent and public agency disagree about the availability of a program appropriate for a child, the disagreement and the determination of financial responsibility is subject to due process procedures provided in Chapter VI.

If a Michigan student is placed in a private school by a public agency, the SEA will ensure that the child has all the rights of a child with disabilities served by the public agency. Further, any private school or facility serving a Michigan student, or to which a public agency has referred or placed a child with disabilities, shall receive a copy of Michigan's standards and revisions as they occur, and the school/facility shall have the opportunity to participate in the development and revision of standards relating to special education.

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CHAPTER XII
RECOVERY OF FUNDS FOR MISCLASSIFIED CHILDREN

It is the responsibility of the MDE, as well as the recipient, to periodically review information on pupils to verify that they have appropriately been determined eligible for funding under Part B of the IDEA, as well as special education Chapter I.

PROCEDURES FOR CHECKING ELIGIBILITY

The MDE has three procedures which are commonly used to determine that all pupils have been deemed eligible for and in need of special education programs and services and are receiving these services prior to being counted for federal funds.

1. Data from all education agencies is entered into a computer data base. Staff from the OSE run a record check of the data submitted by ISDs and state agencies to ensure the accuracy and completeness of all the data codes. The registry management system has a number of data code checks to review and identify any duplicate pupils. The Department notifies the ISD or state agency when a computer identifies student information that is suspected to be in error.

2. The Department has established a three-year cycle for reviewing the count for each ISD and state agency. Staff draw random samples of pupils reported in the December 1 count by various ISDs and state agencies. The Department conducts an on-site visit to ensure the accuracy of the information provided and its consistency with reporting policies.

3. Special data analysis and edit checks have been designed by the OSE to review data reported by the grant recipients to assure that pupils have not been counted more than once (have been unduplicated) and to assure that the pupils who are counted are within the appropriate age span as established by federal regulation. Pupils who have been counted more than once or pupils for whom there is question about being within an appropriate age range are verified with the district so that only those pupils who qualify are included in the final count.

PROCEDURE FOR RECOVERING OF FUNDS

1. The grant recipient who has counted the pupil is notified when there are questions regarding the eligibility of a pupil to be counted.

2. If the grant recipient cannot verify that the pupils qualify, the MDE notifies the grant recipient that an adjustment is being made in their count and a corresponding adjustment in federal funds will be made to the grant allocation.

3. A list of ineligible pupils is maintained at the OSE. The MDE periodically reports to the U.S. Department of Education, Office of Special Education Programs, adjustments that are needed in the federal count as a result of misclassified pupils.

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CHAPTER XIII
NOTICE AND OPPORTUNITY FOR HEARING ON PUBLIC AGENCY APPLICATION

This section applies to an application of a public agency for a subgrant under Part B of the IDEA. Upon receipt of an application from a public agency for a subgrant, the MDE reviews the application for consistency with state and federal statutes and regulations. If the MDE believes that the application does not meet state and federal statutes and regulations, the applicant is notified of the problems and technical assistance is provided by the MDE staff to make appropriate revisions so that the application is approvable.

DISAPPROVAL OF PUBLIC AGENCY APPLICATION AND OPPORTUNITY FOR HEARING

Before disapproving an application, the MDE provides the applicant with notice and opportunity for a hearing required under 34 CFR 76.401. The notice advises the applicant of the following: 1) the issues with the application, 2) the opportunity to resolve the issues so that the application can be approved, 3) the opportunity to request a hearing prior to the MDE disapproving the application, and 4) the date that the MDE intends to make final determination of the disapproval of the application if the issues are not resolved.

If the applicant believes the application is consistent with the governing laws, rules, policies, or grant criteria, the applicant may request a hearing. The public agency shall request a hearing within 30 days of the receipt of the notice.

Within 30 days after it receives a request, the MDE shall conduct a hearing. The Superintendent of Public Instruction or his designee shall conduct the hearing as follows:

a. The MDE personnel responsible for reviewing and recommending approval of LEA applications will present the reasons for believing the application should be disapproved and provide information on the applicable laws, rules, policies, or grant criteria.

b. The public agency applicant will be given an opportunity to provide additional information regarding the application and to show how the application is in compliance with the applicable laws, rules, policies, or grant criteria.

No later than ten days after the hearing, the MDE shall issue its written ruling, including findings of fact and reasons for the ruling.

If the MDE determines that an action to disapprove the application would be contrary to state or federal statutes or regulations that govern the applicable program, the MDE shall approve the application. If the MDE determines to disapprove the application, the public agency may appeal to the Secretary of the U.S. Department of Education. The public agency shall file a notice of the appeal with the Secretary within 20 days after the applicant has been notified by the MDE of the results of the Department's review. If supported by substantial evidence, findings of fact of the MDE are final.

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CHAPTER XIV
ANNUAL EVALUATION

The evaluation of the special education delivery system within the state is a continuous process. Three different levels are utilized. Both process and product evaluation shall occur at each of these levels:

1. The SEA evaluates the special education delivery system of the ISDs. This process is described in detail in Chapter XVI of this Plan and R 340.1831 through R 340.1839 of the Administrative Rules.

2. The SEA evaluates the components of the special education delivery system which relate to federal projects. Federal program fiscal reviews are conducted as a sample of discretionary flow-through special education Chapter I grants. Written correspondence is sent to the school district providing a description of the review and recommendations.

3. The ISDs must include within their plans a description of the process for the continuous evaluation and monitoring of the special education delivery systems of each of their constituent local districts. Additionally, the plans require that each LEA and ISD shall describe the means which determine the effectiveness of special education programs and services and the education plan for meeting the educational needs of each student with a disability. Student follow-up studies conducted by special education, vocational education, general education, community colleges, universities, and/or rehabilitation services may be used for this purpose.

4. Specific evaluation of Michigan Project Find programs is described in Chapter III of this Plan. General evaluation is conducted through procedures described in Chapter XVI.

5. Part 8 of the Administrative Rules (R 340.1851-54, "Complaints") is also used as an evaluation instrument on an ad hoc basis. If findings in a specific complaint are indicative of a systemic problem, systems corrections are implemented. Technical assistance is provided by consultants in the SEA. Corrected systems are reflected in ISD plans.

   The State Board of Education has established a set of minimum criteria to be used in the development and approval of the ISD evaluation and program effectiveness systems. These include evaluation of the program components as required by Article 3 of the School Code as well as those required by the IDEA. Funds for this evaluation will be derived from the districts' federal flow-through money. Corresponding school district applications for funds include an evaluation component.

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CHAPTER XV
DESCRIPTION OF USE OF PART B FUNDS

This chapter describes the use of funds received under Part B of the IDEA for administration by the MDE, for state discretionary grants, and grants that will flow through to intermediate education units. The total amount of federal funds received under Part B will be expended for these three major activities.

Each LEA, intermediate education unit, and state agency shall maintain records which show that state and local funds are used to provide services that are comparable to services provided to other children with disabilities.

PROCEDURES FOR USE OF PART B FUNDS

Consistent with federal regulations, the MDE uses 5% of the allocation for its administration, maintains up to 20% of the allocation for state initiated projects, with the remaining 75% distributed to "intermediate educational units." "Intermediate educational units" as defined in 34 CFR 300.8 of the federal regulations are referred to as "ISDs." Michigan has traditionally distributed more than 75% to ISDs. Michigan uses the full 5% for administration. The MDE has established a procedure to validate the match required by 34 CFR 300.371, state initiated projects designed to be direct or support services.

LEA GRANTS

Michigan has 559 LEAs with 57 ISDs. Approximately 524 LEAs provide direct services to special education pupils. The remaining districts send pupils to larger districts or contract services through the ISD. There were 184,257 pupils with disabilities served in 1993-94. Of these, 181,251 were under the age of 22 as of December 1, 1993.

All LEAs receive Part B funds through a consolidated application. Local districts are direct-funded through their ISDs. The larger ISDs submit a consolidated application and subgrant to their local constituent districts. The remainder of the districts receive service through the ISDs which hire the staff and operate the programs. The ISDs are the application unit. The following chart provides projections for fiscal year 1995 through fiscal year 1997.

Estimate of LEAs Benefiting From Part B Funds

Fiscal Year	Benefiting #	Benefiting %	Direct Funded #	Direct Funded %	Consolidate Application #	Consolidate Application Av. LEAs Included
1995	559	100	300	53	57	10
1996	559	100	300	53	57	10
1997	559	100	300	53	57	10

Policy for the Use of LEA Grant Funds

LEA grant funds must be used for one of three priorities:

Priority One: Unserved and underserved pupils with disabilities, birth through age 21, including identification, evaluation, and program development; **Priority Two:** Identification, location, and evaluation of the most severely disabled within each disability group who are receiving an adequate education; and **Priority Three:** Program enrichment and expansion for eligible pupils with disabilities.

Michigan passed a mandatory special education law in 1971. This law requires that all children with disabilities within the federal age range of birth through age 21 receive a FAPE. As a result of this state mandate, federal funds are targeted at Priority Two and Priority Three pupils. Should the state become aware of any pupil who is unserved or underserved, the school district will be required to serve these pupils. If resources are not available, they will use their federal funds on a priority basis to assure that such pupils are receiving appropriate special education programs and services.

USE OF THE STATE AGENCY ALLOCATION FOR ADMINISTRATION

The following chart identifies the number of staff within the MDE who are reimbursed with Part B funds for the present year, and the anticipated number of staff who will be reimbursed during the next three years.

State Staff Funded Under Part B

Office of Special Education Staff	1994-95	1995-96	1996-97
1. Administration Program			
State Director of Special Education	.0	.5	.5
Department Analyst	.0	.5	.5
Secretarial Support	1.9	2.15	2.15
2. Policy Program			
Supervisor	1.0	1.0	1.0
Consultants	2.0 + 1 vac.	2.0	2.0
Secretarial Support	2.0	2.0	2.0
3. Management Information and Finance Program			
Supervisor	.6	.7	.7
Coordinators	2.0	2.0	2.0
Consultants	1.8 + 1 vac.	1.0	1.0
Technical Support	2.5	3.5	3.5
Secretarial Support	2.7	5.0	5.0
4. Field Services Program			
Supervisor	1.0	1.0	1.0
Coordinators	1.0 vac.	2.0	2.0
Consultants	6.0 + 2 vac.	9.0	9.0
Technical Support	.0	2.0	2.0
Secretarial Support	4.0	1.0	1.0
5. Training, Curriculum, and Approvals Program			
Supervisor	1.0	1.0	1.0
Consultants	4.0	2.5	2.5
Secretarial Support	4.5	2.0	2.0
6. Funded Positions to Carry Out Parts B and H Functions in Other MDE Administrative Offices			
School Program Services	1.0 Consultant		

School Business Services	.5 Auditor
Office of Audits	.4 Auditor

Summary of the Functional Responsibilities by Program Area

1. Administration Program

   The director is responsible for the overall direction and supervision of the service area. This program also includes the development of internal spending plans.

2. Policy Program

   This program is responsible for developing policy in matters related to special education, coordinating the state planning for the delivery of special education programs, and the development and submission of the State Plan to the U. S. Department of Education.

3. Management Information and Finance Program

   This program provides fiscal and technical review and approves of federal program applications, develops statistical information for planning and operational purposes, as well as coordinating research and technology.

4. Field Services Program

   This program provides statewide technical assistance to districts on program planning and problem resolution, reviews and recommends approval of ISD Plans and processes ISD Plan hearing requests, processes state level hearings, rule deviations, performs state review of local investigations of complaints through proof of compliance, conducts state investigations upon appeal, and conducts monitoring of LEA, ISD, and agency compliance with state and federal rules and regulations.

5. Training, Curriculum, and Approvals Program

   This program develops program training criteria, coordinates personnel training and development activities, reviews and approves personnel endorsements in special education and related services, provides/coordinates curriculum efforts and identifies and initiates innovative program practices. It also develops special education personnel approval standards, recommends university programs for approval, and processes special education personnel approval requests.

6. Michigan School for the Blind and Michigan School for the Deaf

   These residential schools provide services to students who are in need of the programs offered at these schools. They do not receive any of the 5% administration allocation under Part B. Part B funds are used for state-initiated projects to provide programs at both state schools. ISDs are responsible for contributing the average per pupil allocation to the state schools. Federal funds are used for excess program costs.

   The MDE does not use funds under Part B of the IDEA to provide services to students with disabilities at the Michigan School for the Blind and the Michigan School for the Deaf unless the MDE uses state and local funds to provide services to those children which, taken as a whole, are at least comparable to the services provided to other children with disabilities at those schools.

The MDE maintains records which show that the MDE meets the above requirement.

Chart 3 is a detailed organizational chart for the OSE. Chart 4 is an organizational chart for the MDE. These have been included to give the reader a graphic picture of where the OSE fits within the total organization of the MDE.

Child Identification, Priorities, and Inservice Training

Aside from the administrative expenses earlier cited, Part B funds are also allocated for the following: (1) identification, location, and evaluation of children with disabilities as specified in 34 CFR 300.128; (2) programs to meet the priorities specified in 34 CFR 300.127 of Part B regulations; and (3) inservice training activities to develop and/or upgrade personnel competencies in regard to the delivery of a FAPE to children with disabilities in the state as specified in 34 CFR 300.382.

The SEA staff provide technical assistance and inservice training to project applicants and subgrantees. Staff of our Management Information and Finance Program have developed a set of procedures to assure the proper conduct and administration of each program to avoid illegal, imprudent, wasteful, or extravagant use of funds. The Field Services Program staff hold planning sessions to assist districts in developing and implementing programs and services in accordance with federal mandates.

Monitoring of agencies, institutions, and organizations responsible for the operation of programs and the enforcement of obligations relative to these programs are carried out by the monitoring staff. The SEA likewise evaluates the effectiveness of each program at least once in every three years to assure that statutory objectives are met. The SEA also cooperates with the U.S. Secretary of Education or other federal officials in conducting evaluations of programs.

The SEAC

A 27-member SEAC advises the State Board of Education on matters relating to special education.

On March 7, 1979, the State Board of Education adopted the following six new points concerning the purpose and role of the SEAC:

1. The role of the committee is to be advisory to the State Board of Education in the field of special education only.

2. The field of special education includes all matters pertaining to educational programs and services designed to serve students with disabilities.

3. Some of the matters pertaining to such educational programs and services include: (a) administrative organizations, local and state; (b) needs for new programs and the expansion of established programs; (c) methods and sources of financing; (d) rules and regulations pertaining to the approval of programs for state financial assistance; and (e) needed new legislative enactments.

4. The SEAC should not necessarily constitute the sole source of direct advice to the State Board of Education in the field of special education, and the State Board of Education should not necessarily act only in terms of such advice.

5. The SEAC might submit advice to the State Board of Education upon specific requests of the State Board of Education or it might elect to submit advice in the absence of such specific requests.

6. Other sources of direct advice to the State Board of Education concerning the field of special education might include such persons and groups as the superintendent of public instruction and his/her staff, school administrators, education directors, teachers, parents and parent associations, school board members, legislators, and other advisory committees which the State Board of Education may wish to appoint from time to time.

The SEAC has been designated as the same body to assume the role of the advisory panel as required by 34 CFR 300.650 to 34 CFR 300.653 of Part B regulations. Primarily, the SEAC provides advice to the State Board of Education through the director of the OSE, who participates in all meetings as an ex-officio member of the SEAC. The SEAC also reviews and comments on the State Plan, identifies new priorities for programs and services emphasis, innovative processes dealing with effective delivery systems, and problems or issues as they become aware of them through their interaction with advocates, parents, providers of service, and other groups interested in the education of the disabled. Administrative funds are used to defray expenses of the SEAC members for meetings (reimbursement for mileage, board, lodging). Monthly meetings are scheduled; however, the number of meetings may vary in accordance with perceived needs.

School District Allocations

Minimally 75% of the total funds generated under Part B are distributed to 57 ISDs.

Use of State Agency Allocations for Direct Services or Support Services for Students with Disabilities

The MDE intends to use the full 5% of its allocation for administration of the state program as defined above. None of the funds will be used for direct or support services as authorized in Section 611 of the IDEA.

Administrative funds will be used to cover the cost of staff who will be responsible for monitoring and complaint investigation. Federal funds under this section are used to cover costs in excess of those that were reimbursed with state funds.

State Initiated Projects

The state may use up to 20% of its allocation to cover the costs of statewide projects or research, evaluation, personnel development, and program enhancement.

The following information provides a list of projects that were approved by the State Board of Education for Fiscal Year 1995 and anticipated continuation projects for Fiscal Year 1996 and Fiscal Year 1997. Final funding will be subject to approval of the State Board and may include other direct or support services determined to have a higher priority of need in future years.

CHAPTER XVI
ADDITIONAL INFORMATION

The State Board of Education, through its administrative agency, the MDE, provides direct services to children with disabilities at the Michigan School for the Blind (located in Lansing, Michigan), and the Michigan School for the Deaf (located in Flint, Michigan). General statutes governing the two state schools appear in Appendix C. By action of the State Legislature, P.A. 148 of 1917, both schools were said to be public schools.

These residential schools represent options for placement on Michigan's continuum of options for the education of visually impaired or hearing impaired youngsters at the LEA, the ISD, and the state level. Those state school options are available for visually impaired and hearing impaired students whose needs, nature and severity, or multiplicity of disabilities are such that they cannot be satisfactorily educated in their home school district. LEAs may contract with the state schools to educate a student who needs the services of the state school.

Part 31 of the School Code at Section 380.1751(b) provides that an LEA may:

> Contract with its intermediate school board, another intermediate school board, another local school district board, an adjacent school district board in a bordering state, the Michigan school for the blind, the Michigan school for the deaf, the department of mental health, the department of social services, or any combination thereof, for delivery of the special education programs or services or with an agency approved by the state board for delivery of an ancillary professional special education service. The intermediate school district of which the local school district is constituent shall be a party to each contract even if the intermediate school district does not participate in the delivery of the program or services.

Both schools, being public schools of Michigan educating children with disabilities, must comply fully with state and federal regulations applicable to LEAs and ISDs. Prior to placement of a child at either of the two state schools, the LEA and the respective ISD are obligated to exhaust less restrictive options as reflected in the State Board of Education's "The Educational Assignment of Handicapped Children and Youth to Separate Facilities: A Policy Regarding Least Restrictive Environment."

Referral to either state schools is effectuated by the LEA through its respective ISD. Parent consent, and involvement in referral, evaluation, IEPC processes, and procedural safeguards are the same as for all other special education initial, three-year, and annual evaluations and IEPs are the responsibility of the LEA of residence. In this way, LEAs are continually and directly involved in the education of their student with disability residents irrespective of their placement at either of the state schools. The LEA is under the continuing obligation to exhaust LRE options.

Both state schools have citizen advisory committees appointed by the State Board of Education. Both schools have constituent parent groups. Each of these groups meet at least quarterly at their respective state schools.

Both state schools have the capability to meet the social, physical, and educational needs of their enrolled student bodies. Each school has instituted agreements with the LEA in which the school is located to provide various academic, vocational, and therapeutic needs of the students in accord with their IEPs. Students enrolled at each school are integrated with the local public school special education and general education programs for these educational activities. Both schools provide traditional diagnostic and therapeutic services on campus (social work, psychology, nursing, etc.) and contract with LEAs or private providers to complement these services so that comprehensive evaluations and support services are available. Basic educational programs and support services are comparable to LEA programs.

A full continuum of less restrictive placements are available to meet the needs of each student at each state school. Those placements are available in the surrounding communities.

THE SEA MONITORING PROCEDURES

Programs and services provided by all public agencies (school districts, institutions, etc.) are reviewed and monitored to assure compliance with the IDEA and P.A. 451.

The SEA conducts these monitoring activities to assure compliance. Educational programs and related services provided within the compounds of facilities operated by the MDMH, the MDSS, the MDOC and the MDE are monitored at times scheduled for school districts within whose boundaries these facilities are located. Specifically, the SEA:

1. Collects data on the number and types of programs actually operated, number of children served, cost of programs, and other data needed to monitor and evaluate the special education delivery system. Data is analyzed by staff and a computer is used to determine if programs have the following: approved personnel and assurance that all identified persons with disabilities are placed in appropriate special education programs and/or services. These activities are carried out yearly for each public agency operating special education programs and/or services.

2. Conducts monitoring of special education delivery systems for compliance with state and federal law as described in the Michigan Monitoring Manual. Each ISD, including all constituencies, is reviewed on-site once every three years by a specifically selected and trained monitoring team. This deals with Michigan compliance with the IDEA, P.A. 451 of 1976, and the FERPA, and specifically addresses the following concerns: full educational opportunity, FAPE, priorities of the law, IEPs, direct services by the agency, a CSPD, participation of private school children and their protection in evaluation procedures, due process procedures, LRE, confidentiality of information, and child identification. Programs for children with disabilities who are placed in or referred to a private school or facility by a public agency will be subject to the same monitoring requirement as the public agency (written reports, on-site visits, parent questionnaires, etc.) for those children. Each monitored ISD receives a copy of the Final Report. Final Reports are available for public review and review by the SEAC.

3. Reviews annually all applications for funds under Part B of the IDEA.

4. Conducts monitoring on-site visits at least every three years for each ISD, to assure that federal funds are utilized on programs or services for students with disabilities who are eligible under the IDEA regulations. Procedures identified in Chapter XII of this Plan are used in the recovery of funds for misclassified children.

5. Selects a random student sample for comparison of IEPs with programs actually provided and determines if the ISD monitoring/evaluation procedure as described in the Michigan Monitoring Manual has been implemented.

The State Board of Education has established the following rules which allow citizens to file complaints: Part 8 of the Administrative Rules (R 340.1851 through R 340.1853) establishes the responsibility of the SEA and school districts in processing complaints and conducting investigation of allegations. The section likewise details related procedures for enforcement of Part B when agencies fail to correct known violations.

The State Board of Education has established within the OSE organization, provisions to assure that activities relating to compliance and monitoring are conducted. Compliance staff are responsible to review, investigate, and act on any allegations of substance which indicate a violation of state law, rules, State Plan, ISD Plan, or the provisions of the IDEA, as these relate to the education of persons with disabilities. If the OSE discovers evidence that a public agency makes placements that are inconsistent with the Administrative Rules or applicable federal regulations (IDEA), the OSE will review the public agency's justification for its actions and assist in planning and implementing any necessary corrective action.

When a district is found to be in noncompliance with any provision of the IDEA, federal funds may be withheld by using the procedures for withholding funds described in Chapters XII and XIII of this Plan.

Policies and procedures for use of Part B funds are addressed in Chapter XV of this Plan.

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CHAPTER XVII
INTERAGENCY AGREEMENTS

Agencies other than the MDE are authorized by legislation to operate special education programs and must comply with all laws, as well as the rules established by the State Board of Education for educating children with disabilities. Chapter IX of this Plan describes the responsibility of the SEA to provide leadership in the provision of special education programs.

When departments of state other than the SEA operate programs for children with disabilities, it is the policy of the SEA that interagency agreements be developed between the MDE and the following state agencies: the MDMH; the MDSS; and the MDOC. Also within the MDE, an agreement is developed between the OSE, the Office of Career and Technical Education (OCTE), and the MRS. This agreement is currently under revision due to changes in state and federal requirements. Each interagency agreement contains procedures unique to the public agency to implement its interagency agreement. Action by the State Board of Education in approving current agreements may be found in Appendix D.

THE MDMH

The MDMH is responsible for operating special education programs in state facilities for the emotionally impaired. The responsibility includes the availability of a FAPE, the employment of properly certified personnel, and the provision of adequate and appropriate facilities and necessary instructional supplies and materials in order to implement appropriate special education programs and services. The MDMH facilities for the emotionally impaired are required to provide all special education programs and services needed by each student with a disability.

THE MDSS

Act 150 of the Public Acts of 1974 authorizes the MDSS to directly operate programs. The MDSS provides special education programs and services to youth with disabilities who are admitted to the state operated institutional programs. These programs are operated by the MDSS and serve state wards who are committed to the MDSS by the county juvenile court system. The MDSS is responsible to assure that programs are operated in accordance with state and federal statutes governing the delivery of special education.

THE MDOC

The MDOC provides special education programs and services to individuals with disabilities who are under age 26, who have not graduated from high school, and who are incarcerated in the Michigan prison system. The MDOC is responsible to assure that programs are operated in accordance with state and federal statutes governing the delivery of special education.

These agreements will describe the responsibilities of each participating agency. The agreements will define the financial responsibility of each agency for providing children and youth with disabilities with a FAPE. The agreements will also include a mechanism for resolving interagency disputes including procedures under which LEAs may initiate proceedings to secure reimbursement from other agencies or otherwise implement the provisions of the agreement.

PROCEDURES

The procedures to implement the interagency agreements policy follow.

1. The director of the OSE has a staff member who works with the special education contact person in the MDMH, the MDSS, the MDOC, the MDPH, and the Michigan

Department of Management and Budget, as well as the intra-department contact person in the OCTE and MRS.

2. Under the leadership of the OSE-appointed liaison, representatives from the agencies will develop an agreement which will minimally contain the following:
   a. A clear differentiation of financial responsibility for providing special education programs and services.
   b. A means by which ISDs and LEAs, if appropriate, may secure reimbursement from other agencies.
   c. A clear description of the responsibilities for meeting the educational needs of students enrolled in special education programs within the participating agencies.
   d. A process for resolving any disputes which may arise regarding the provision of services to students with disabilities.

3. Upon completion of the interagency agreement, the head of each agency shall sign the agreement indicating intent to abide by the procedures outlined therein.

4. The head of each agency shall, if appropriate, have the agreement formally accepted by the body governing the agency. For the MDE, this is the State Board of Education.

STATUS OF INTERAGENCY AGREEMENTS

The MDE is working with each agency in order to update and specify the financial responsibility of each agency written into the agreement or of resolving interagency disputes. The persons working on the agreements have been informed of federal requirements and concerns identified in Michigan's Federal Monitoring Report.

MEETING SCHEDULES

The MDMH Interagency Agreement Committee has completed Chapter One. Chapters Two, Three, and Four are undergoing revision of the respective drafts (see below).

The MDOC and the MDSS agreements have been accepted by the State Board of Education. Meetings are held on a quarterly basis. The purpose of these meetings includes addressing the financial responsibility and dispute resolution provisions required to be in the agreements.

A Children's Special Health Care Services Advisory Committee has been instituted. This interagency committee will review the provision of services to children and will develop fiscal and program recommendations pertaining to the involvement of schools and other agencies.

THE MDMH

The interagency agreement will contain five chapters. These are:

Chapter 1	Developmentally Disabled Recipients of DMH Regional Centers and Contract Agencies (completed)
Chapter 2	Mentally Ill Recipients of DMH Psychiatric Hospitals and Contract Agencies (ongoing discussion with the DMH)
Chapter 3	Developmentally Disabled Recipients of CMH Boards and Contract Agencies (developmental stage)
Chapter 4	Mentally Ill or Emotionally Impaired Recipients of CMH Boards and Contract Agencies (developmental stage)
Chapter 5	School-aged Persons in General Education Programs

Chapter 5 has yet to be developed. Individuals wanting a free copy of Chapter I which has been completed should contact the MDE, OSE at (517) 335-0477.

THE MDOC

The interagency agreement is complete and was accepted by the State Board of Education in 1991. An update revision will be approved in April 1994. Individuals wanting to review a copy of the Special Education Plan of the MDOC should contact the Education and Prisoner Program Section at (517) 373-3605.

THE MDSS

The interagency agreement is complete and was accepted by the State Board of Education in 1990. Individuals wanting to review or obtain a copy of the Special Education Plan of the MDSS should contact the Office of Delinquency Services at (517) 373-8226.

THE MDPH

No agreement exists. The OSE staff meets with the MDPH staff on a regular basis and are members of the Children's Special Health Care Services Advisory Committee.

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CHAPTER XVIII
PERSONNEL STANDARDS

POLICIES AND PROCEDURES

It is the policy of the State Board of Education that all personnel responsible for providing special education programs and services be qualified. Qualifications include certification, endorsement, approval, and/or licensure. Special education personnel in Michigan will meet "appropriate professional requirements in the state." "Appropriate professional requirements in the state" means entry level requirements that:

1. Are based on the highest standards in Michigan applicable to the profession or discipline in which a person is providing special education or related services to ensure that personnel are appropriately and adequately prepared and trained; and

2. Are established standards which are consistent with state-approved or recognized certification, licensing, or other comparable requirements that apply to the profession or discipline in which a person is providing special education or related service to children and youth with disabilities who are served by state, local, and private agencies.

Two sections of the Administrative Rules relate to the standards for special education personnel. Part 4 presents the qualifications of directors and supervisors; Part 5 presents the qualifications of teachers and other personnel. Directors and supervisors also meet Michigan's requirements for administrative certification.

All teachers receive a valid Michigan teacher certificate. In addition, all special education teachers, including teachers of the speech and language impaired, receive special education endorsements or approvals. Special education endorsements are granted to professionals who are recommended by approved colleges and universities. Endorsements are given in the areas of mentally impaired, emotionally impaired, learning disabled, hearing impaired, visually impaired, physically and otherwise health impaired, homebound and hospitalized, speech correction, and autism. In addition, two categories of teachers are approved. These are teachers of preprimary impaired children (R 340.1795) and teachers of physical education to the disabled (R 340.1797).

Teacher consultants are approved when recommended by the employing superintendent pursuant to qualifications stipulated in R 340.1790. Teacher consultant approvals are given in the areas of mentally impaired, emotionally impaired, learning disabled, hearing impaired, visually impaired, physically and otherwise health impaired, and autism.

School psychologists are certified and school social workers are approved by the MDE when they have met qualifications which are specified in R 380.201-R 380.209 and R 340.1012, respectively.

There is a set of therapists who are employed in Michigan's schools. These include physical therapist, physical therapist assistant, occupational therapist, occupational therapist assistant, music therapist, art therapist, and recreational therapist. These professionals must meet the standards of R 340.1792.
There are other personnel who are employed who do not fit the category of special education teacher, teacher consultant, school psychologist, school social worker, or therapist. These include audiologists, orientation and mobility specialists, curriculum resource consultants, and work study coordinators. All of these professionals are approved pursuant to R 340.1792, R 340.1791, and R 340.1799d. It is specified in

R 340.1738 and R 340.1748 that a nurse must be a registered nurse.

Paraprofessionals are utilized in special education programs. Paraprofessionals include instructional aides, teacher aides, health care aides, bilingual aides, and program assistants. The qualifications for instructional aides are presented in R 340.1794. Other aides must meet qualifications pursuant to R 340.1793. Interpreters of the deaf have qualifications; these are presented in R 340.1793(2).

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